

CHAPTER 114: MESSAGE ESTABLISHMENTS

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§ 114.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MASSAGE. The administration by any person of any method of exerting or applying pressure, friction, moisture, heat or cold to the human body, or the rubbing, stroking, kneading, pounding or tapping of the human body by any physical or mechanical means for any form of consideration.

MASSAGE ESTABLISHMENT. Any establishment or operation wherein a massage is administered or is permitted to be administered when such massage is administered or permitted to be administered for any form of consideration.

MASSAGIST. Any person who administers a massage for any form of consideration.
(Prior Code, § 5.16.010)

§ 114.02 LICENSE REQUIRED FOR MASSAGE ESTABLISHMENT.

No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried in or upon any premises within the city a massage establishment, unless the license for the operation of a massage establishment has been issued by the city and unless the license remains in effect in conformity with the provisions of this chapter.

(Prior Code, § 5.16.020) Penalty, see § 114.99

§ 114.03 APPLICATION FOR MASSAGE ESTABLISHMENT LICENSE.

Each application for a massage establishment license shall be upon a form provided by the city and shall be submitted to the Finance Officer and shall contain the following information:

- (A) A definition of service to be provided;
- (B) The location and mailing address of the proposed establishment;
- (C) The name and residence address of each applicant;
- (D) If the applicant is a corporation, the names and residence addresses of each of the officers and directors of the corporation and of each stockholder owning more than 10% of stock of the corporation, and the address of the corporation itself, if different from the address of the massage establishment;
- (E) If the applicant is a partnership, the names and residence addresses of each of the partners, including limited partners, and the address of the partnership itself, if different from the address of the massage establishment;
- (F) The last two previous addresses (if any) during the past three years immediately prior to the present address of the applicant;
- (G) A certified copy of applicant's birth certificate showing that the applicant is over the age of 18 years;
- (H) Individual or partnership applicant's height, weight, color of eyes and hair, and sex;
- (I) Copy of identification such as driver's license and Social Security card;
- (J) Business, occupation or employment of the applicant for the three years immediately preceding the date of the application, including the name, dates of, location and nature of employment;
- (K) The history of the applicant in the operation of a massage establishment or similar business or occupation, including, but not limited to, whether or not such person, in previously operating in this or another city within any state with or without license, has had such license revoked or suspended and the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation;
- (L) All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted;

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(M) The name and address of each massagist who is or will be employed in the establishment;

(N) Such other identification and information necessary to discover the truth of the matters specified in this section as required to be set forth in the application; and

(O) If a corporation, the name and address of the resident agent, which must be kept current at all times.

(Prior Code, § 5.16.030) (Ord. 1051, passed 4-16-2018)

§ 114.04 INVESTIGATION OF PREMISES PROPOSED TO BE USED AS MASSAGE ESTABLISHMENT.

Upon receipt of the application for a massage establishment license, the Finance Officer shall refer the application to the Planning and Zoning Commission, and the Police Department, each of which, within a period of 30 days from the date of application, shall review records and make inspection of the premises proposed to be used as a massage establishment and shall make a written recommendation to the City Commission concerning compliance with the law.

(Prior Code, § 5.16.040) (Ord. 1051, passed 4-16-2018)

§ 114.05 DENIAL OF MASSAGE ESTABLISHMENT LICENSE; NOTICE; RIGHT TO HEARING.

(A) The City Commission shall not issue such massage establishment license if, based upon the investigation and reports, it is found that:

(1) The operation, as proposed by the applicant, if licensed, would not comply with all applicable laws, including, but not limited to, the city's building, zoning and health regulations;

(2) The applicant has been convicted in a court of competent jurisdiction of any offense involving the use of force or violence upon the person of another; and

(3) The applicant has, knowingly and with intent to deceive, made any false, misleading or fraudulent statement of fact in the permit application or any other document required by the city in conjunction therewith.

(B) For denial, notifications and reasons for the denial shall be set forth in writing by the Finance Officer and sent to the applicant by means of registered or certified mail or hand delivery. The denied applicant shall at his or her election have the right to receive a hearing before the City Commission pursuant to the terms of § 114. 20. If such a hearing is not requested within ten days of the notice of denial, the denial shall be final.

(C) This section shall not limit causes for denial but shall be in addition to other causes for denial found by the City Commission or provided by this code.

(Prior Code, § 5.16.050) (Ord. 1051, passed 4-16-2018)

§ 114.06 TEMPORARY MASSAGE ESTABLISHMENT LICENSE.

Upon application, the Finance Officer shall issue a temporary massage establishment license to any applicant who was, upon the effective date of the ordinance from which this section is derived, the owner

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or operator of such an establishment in the city pending review and investigation of the application submitted as required in this chapter. Such temporary license shall remain in effect for a period of no longer than 30 days or until issuance/denial of the permanent license. If the application for the permanent license is denied, the temporary license shall immediately expire and shall be of no further force or effect. (Prior Code, § 5.16.060) (Ord. 1051, passed 4-16-2018)

§ 114.07 MASSAGE ESTABLISHMENT FACILITIES.

No license to conduct a massage establishment shall be issued to an applicant therefore unless the proposed establishment complies with each of the following minimum requirements, and no licensee operating a massage establishment shall fail to comply with the following minimum requirements:

(A) A recognizable and legible sign shall be posted at the main entrance to any building, or to a portion of a building used as a massage establishment identifying the premises as a massage establishment, and recognizable and legible signs shall be posted at all exits;

(B) No less than one artificial white light of 60 watts or more shall be provided and illuminated in each room or enclosure where a massage is administered while occupied;

(C) Equipment approved by the City Health Officer for disinfecting and sterilizing instruments used in performing a massage shall be provided;

(D) Hot and cold running water shall be provided to a metal or ceramic coated metal utility sink approved by the City Health Officer;

(E) Sanitary cabinet space shall be provided for storage of clean linen;

(F) Adequate dressing, locker and toilet facilities shall be provided for patrons. A minimum of one dressing room containing adequate lockers for patrons to be served, and a minimum of one toilet and one wash basin shall be provided by every massage establishment; provided, however, that if male and female patrons are to be served simultaneously at the establishment, separate massage rooms, separate locker facilities, separate dressing facilities and separate toilet facilities shall be provided for male and female patrons;

(G) All walls, ceiling, floors, pools, showers, bathtubs, steam rooms and all other physical facilities for the massage establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, bathtubs and toilet rooms shall be thoroughly cleaned and disinfected with a disinfectant each day the business is in operation; and

(H) Clean and sanitary towels and linens shall be provided for each patron of the establishment. No common or repeated use of unlaundered towels or linens shall be permitted. (Prior Code, § 5.16.070)

§ 114.08 INSPECTION OF ESTABLISHMENTS BY OFFICIALS.

The investigating officials of the city or its agent, and the City Health Officer, shall have the right to enter the massage establishment premises from time to time during regular business hours for the purpose of making reasonable inspections to enforce compliance with building, fire, electrical, plumbing or health

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regulations. This shall not restrict or limit the right of entry vested in any law enforcement agency.
(Prior Code, § 5.16.080)

§ 114.09 NAME OF ESTABLISHMENT.

No person licensed to do business as provided in this chapter shall operate under any name or conduct the business under any designation not specified in the license.
(Prior Code, § 5.16.090)

§ 114.10 CHANGE OF LOCATION OF ESTABLISHMENT.

A change of location of a licensed massage establishment may be approved by the Finance Officer provided all applicable provisions of the city ordinances are complied with and upon payment of a change of location fee of \$25 to partly defray the costs of investigation.
(Prior Code, § 5.16.100) (Ord. 1051, passed 4-16-2018)

§ 114.11 MASSAGIST LICENSEES TO BE EMPLOYED.

No massage establishment licensee shall employ, or otherwise allow, any person to perform as a massagist who is not licensed as a massagist under the terms of this chapter.
(Prior Code, § 5.16.110)

§ 114.12 MESSAGES AT MESSAGE ESTABLISHMENT ONLY.

No person shall administer a massage or permit a massage to be administered at or upon any public place other than a massage establishment.
(Prior Code, § 5.16.120)

§ 114.13 MASSAGIST LICENSE REQUIRED.

No person shall perform as a massagist within the city unless such person has first been issued a massagist license by the City Commission and unless such license or temporary license remains in effect in conformity with the provisions of this chapter.
(Prior Code, § 5.16.130)

§ 114.14 APPLICATION FOR MASSAGIST LICENSE.

Each application for a massagist license shall be upon a form provided by the city and shall be submitted to the Finance Officer. Each form shall contain the following information:

- (A) The applicant's full name, residence address and telephone number;
- (B) The name and address of the massage establishment where the applicant is to be employed as a massagist;
- (C) The criminal record, if any, other than misdemeanor traffic violations, of the applicant;

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(D) Whether any license to perform as a massagist has previously been denied or revoked and, if so, the reasons, dates and places of such denial or revocation;

(E) One portrait photograph at least two inches by two inches and a complete set of the applicant's fingerprints which shall be taken by the Police Chief or his or her agent;

(F) Written proof that the applicant is over the age of 18 years; and

(G) A certificate from a medical doctor stating that the applicant, within 30 days immediately prior to filing application, has been examined and found to be free from any contagious or communicable disease which is likely to be communicated during the administration of a massage. Every massagist licensed under this chapter shall be recertified, in accordance with this division (G) each year.

(Prior Code, § 5.16.140) (Ord. 1051, passed 4-16-2018)

§ 114.15 INVESTIGATION UPON RECEIPT OF APPLICATION FOR MASSAGIST LICENSE.

Upon receipt of the application for a massages license, the Finance Officer shall refer the application to the Police Department within 30 days from the date of the application and submit a written recommendation thereon to the City Commission.

(Prior Code, § 5.16.150) (Ord. 1051, passed 4-16-2018)

§ 114.16 DENIAL OF MASSAGIST LICENSE; NOTICE; RIGHT TO HEARING.

(A) The Finance Officer shall not issue a massages license if, based upon the investigation and report, it is found that:

(1) The applicant has been convicted in a court of competent jurisdiction of an offense involving the use of force or violence upon the person of another; and

(2) The applicant has, knowingly and with intent to deceive, made any false, misleading or fraudulent statement of fact in the license application or in any other document required by the city in conjunction therewith.

(B) For denial, notifications and reasons for denial shall be set forth in writing by the Finance Officer and shall be sent to the applicant by means of registered or certified mail or hand delivery. The denied applicant shall, at his or her election, have the right to a hearing before the City Commission pursuant to the terms of § 114. 20. If such hearing is not requested within ten days of the notice of denial, the denial shall be final.

(C) This section shall not limit causes for denial but shall be addition to other causes for denial found by the Finance Officer or provided by this code.

(Prior Code, § 5.16.160) (Ord. 1051, passed 4-16-2018)

§ 114.17 TEMPORARY MASSAGIST LICENSE.

Upon application, the Finance Officer shall issue a temporary massages license to any applicant who was, upon the effective date of the ordinance from which this section is derived, performing the function of massagist in the city, pending review and investigation of the applicant submitted in this chapter. Such

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temporary license shall remain in effect for a period of no longer than 30 days or until issuance/denial of the permanent license. If the application for the permanent license is denied, the temporary license shall immediately expire and shall be of no further force or effect.

(Prior Code, § 5.16.170) (Ord. 1051, passed 4-16-2018)

§ 114.18 TRANSFER OF MASSAGIST LICENSE.

No massagist license shall be transferable.

(Prior Code, § 5.16.180)

§ 114.19 POSTING OF MASSAGIST AND MESSAGE ESTABLISHMENT LICENSES.

Each massage establishment licensee shall post in a conspicuous place within the massage establishment the license of each massagist performing as a massagist in the establishment and the license of the massage establishment.

(Prior Code, § 5.16.190)

§ 114.20 DENIAL, SUSPENSION OR REVOCATION OF LICENSES GENERALLY.

(A) *Denial.* Within ten days of the denial by the Finance Officer of an application for a massage establishment license or massagist license, the applicant may file with the Finance Officer a written request for hearing before the City Commission. At such hearing, evidence shall be received for the purpose of determining whether or not such denial shall be upheld. Following the hearing, if the denial is upheld, the notification of and reasons for such decision shall be set forth in writing and sent to the applicant by means of registered or certified mail or hand delivery.

(B) *Suspension or revocation.* Any massage establishment or massagist license shall be subject to suspension or revocation by the City Commission for violation of any provision of this chapter, city ordinance, rule or regulation or state law, or for grounds that should warrant the denial of the issuance of such license in the first instance, or for the violation of any law relating to or regulating massage establishments or massagists. The suspension or revocation of a license shall be accomplished pursuant to a hearing held before the City Commission at which time evidence shall be received for the purpose of determining whether or not such license shall be suspended or revoked or retained. Following the hearing, if the license is suspended or revoked, the notification of and reasons for such decision shall be set forth in writing and sent to the licensee by means of registered or certified mail or hand delivery. Notice of such hearing shall be in writing, directed to and delivered to applicant by means of registered or certified mail or hand delivery at least ten days before such hearing.

(Prior Code, § 5.16.200) (Ord. 1051, passed 4-16-2018)

§ 114.21 INJUNCTION RELIEF.

In addition to the legal remedies provided for in the city ordinances, the operation of any massage establishment in violation of the terms of this chapter shall be deemed a public nuisance and may be enjoined by the city.

(Prior Code, § 5.16.210)

§ 114.22 EXEMPTIONS.

This chapter shall not apply to the following:

(A) Physicians, surgeons, chiropractors, osteopaths, physical therapists, psychiatrists, psychologists, clinical social workers, family counselors and clergy who are licensed to practice their respective professions in the state or who are permitted to practice temporarily under the auspices of an associate or establishment duly licensed business or profession;

(B) Nurses and hospital employees who are registered under the laws of this state while in the normal course of their duties;

(C) A trainer of any duly constituted athletic team while in the normal course of his or her duties;

(D) Any duly licensed establishment in which such persons practice their respective professions;
and

(E) Any establishment which offers massage as one part of a complete athletic, recreational or health facility or program, nor to persons employed by such establishments to perform massages.
(Prior Code, § 5.16.220)

§ 114.23 UNLAWFUL ACTS.

(A) It is unlawful for any person in a massage establishment to place his or her hands upon, to fondle in any manner, or to massage a sexual or genital part of any other person.

(B) It is unlawful for any massagist, in a massage establishment, to expose his or her sexual or genital parts, or any portion thereof, to any other person.

(C) It is unlawful for any person, while in the presence of any other person in a massage establishment, to fail to conceal with a fully opaque covering the sexual or genital parts of their body.

(D) It is unlawful for any person owning, renting, leasing, operating or managing a massage establishment knowingly to cause, allow or permit, in or about such massage establishment, any agent, lessee, employee or any other person under their control or supervision to perform such acts prohibited in divisions (A), (B) or (C) above.

(E) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

SEXUAL OR GENITAL PARTS. Includes the genitals, pubic area, anus or perineum of any person, or the vulva or breasts of a female.

(Prior Code, § 5.16.230) Penalty, see § 114.99

§ 114.24 TRANSFER OF MESSAGE ESTABLISHMENT LICENSE.

No massage establishment license shall be transferable.
(Prior Code, § 5.16.240)

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§ 114.25 APPLICATION FEE.

(A) Application fee for the massage establishment license shall be in the amount as established by resolution of the City Commission, which fee must accompany the application. Such fee is not refundable.

(B) Application fee for massagist license shall be in the amount as established by resolution of the City Commission, which fee must accompany the application. Such fee is not refundable.
(Prior Code, § 5.16.250)

§ 114.99 PENALTY.

Except as otherwise specifically provided, any person violating any provisions of this chapter, or failing to comply with any of the provisions thereof, shall upon conviction thereof be punished by a fine of the maximum amount permitted by law, or by imprisonment not exceeding 30 days, or by both such fine and imprisonment.
(Prior Code, § 5.16.260)