

Chapter 98-A – Massage Facility License

1. Definitions:

For the purpose of the provisions of this Chapter, the following words and phrases shall have the meanings herein set forth, unless it is apparent from the context that a different meaning is intended.

- (a) “Employee” means any person other than a massage therapist, who renders any service in connection with the operation of a Massage Facility and receives compensation from the operator of the business or patrons. This includes a leased employee or subcontractor.
- (b) “Licensee” means the person to whom a license has been issued to own or operate a Massage Facility as defined herein.
- (c) “Manager” means a person who is employed by a Massage Facility to act as a manager or supervisor of employees, independent massage therapists, or independent contractors, or is otherwise responsible for the operation of the business.
- (d) “Massage” means the application of a system of structured touch, pressure, movement, and holding to the soft tissue of the human body in which the primary intent is to enhance or restore the health and well-being of the client. Massage includes complementary methods, including the external application of water, heat, cold, lubrication, scrubs, body wraps, or other topical preparations; and electromechanical devices that mimic or enhance the actions possible by the hands. For purposes of this Chapter, the terms “bodywork”, “acupressure”, and “acupuncture” are included in the definition of massage.
- (e) “Massage facility” means any individual, group of individuals, person or business which engages in the practice of massage as defined in subsection 1(d), and which has a fixed place of business where any person, firm, association, partnership, limited liability company or corporation carries on any of the activities as defined in subsection 1(d). Massage Facility also includes a Turkish bath parlor, steam bath, sauna, magnetic healing institute, health club, health spa, or physical fitness club or business that offers massages on occasion or incidental to its principal operation.
- (f) “Massage therapist” means any person who engages in the practice of massage as defined in subsection 1(d). Use of the word “massage therapist” in this Chapter shall include massage therapist, masseurs, masseuses and all others engaged in massage.
- (g) “Patron” means any person who receives a massage under such circumstances that it is reasonably expected that he or she shall pay money or give any other consideration for the massage.

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- (h) “Person” means any individual, partnership, firm, association, joint stock, company, limited liability company, corporation or combination of individuals or business entities of whatever form or character.

2. Facility License Required:

- (a) Except as set forth in Section 3, no person shall operate a Massage Facility without obtaining a valid Massage Facility License for each separate office or place of business address. A Massage Facility License shall be renewed on an annual basis and cover the licensing period of January 1st to December 31st of each year.
- (b) Based on past investigations and articulated health, safety and welfare concerns, the City intends to issue a maximum of 18 Massage Facility Licenses each year. As of November 1, 2017, all existing Massage Facilities that are properly licensed shall be considered a “Current Facility.” Current Facilities are eligible to able to apply for annual renewal(s), even if the issuance of a license temporarily results in more than 18 Massage Facilities in the City. If a license is revoked, rescinded or suspended, or if there is a change in ownership or location, or if the licensing requirements of Section 11 and 13 are not satisfied, then the Massage Facility is no longer qualified as a Current Facility.
- (c) If the City has issued less than the maximum of 18 Massage Facility licenses for any one year, after processing all of the Current Facility renewal applications, then the City can consider new applications. If there are more applications than licenses available, then a City Administrative committee, comprised of representatives from the City Manager’s Office, City Clerk’s Office, Planning Department, Building Inspections Department, Police, and City Attorney’s Office will evaluate and prioritize the applications, based on the following factors:
 - (1) The applicant’s experience in operating other similarly licensed businesses.
 - (2) The applicant’s general business management experience.
 - (3) The applicant’s general business reputation.
 - (4) The applicant’s moral character.
 - (5) Past convictions of the applicant for any of the following:
 - (i) A felony.
 - (ii) A crime involving any of the following:
 - A) Gambling.
 - B) Prostitution.
 - C) Weapons.
 - D) Violence.
 - E) Tax evasion.
 - F) Fraudulent activity.

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- G) Controlled substances.
 - H) Serious moral turpitude.
 - I) A misdemeanor of such a nature that it may impair the ability of the applicant to operate a licensed business in a safe and competent manner.
- (6) The history of non-payment or late payment of taxes by the applicant and/or property owner.
 - (7) The need for proposed business in the particular area.
 - (8) The proximity of the proposed business to other similarly licensed businesses.
 - (9) The proximity of the proposed business to a residentially zoned or used zoning
 - (10) The overall fit and compatibility with the Master Plan of the City.
 - (11) The impact of the business on police and code enforcement.
 - (12) The effect that the issuance of a license would have upon the economic development of the surrounding area.
 - (13) The effect that the proposed business would have upon the surrounding neighborhood and/or business establishments, including impacts upon residential areas, churches, schools, and public parks.
 - (14) The overall benefits of the proposed establishment to the City.
 - (15) Any other factors that may affect the health, welfare, and/or safety of the general public.
 - (16) Any other factors that the City may deem proper, provided such considerations are reasonable under all of the circumstances.
 - (17) Proposed uniform attire

3. Exemptions for Massage Facility Licensing:

The following facilities are exempt from the requirement of a Massage Facility License:

- (a) Hospitals, medical facilities, medical offices where massage therapists engage in the performance of massage under the supervision of and in conjunction with the professional practices of physicians, surgeons, chiropractors, osteopaths, physical therapists or other recognized medical professionals who are fully licensed to practice their respective professions in the State of Michigan.
- (b) Hospitals, medical facilities, medical offices, or other facilities where nurses who are registered and licensed under the laws of the State of Michigan perform massages.
- (c) A facility which, as its primary function, is a gymnasium, fitness center with weight lifting/body building/body strengthening equipment, a sports training facility, or a sports or fitness facility in which massage therapy is an integral part of the relaxation and/or treatment of muscle groups for

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sports or fitness conditioning.

- (d) A facility, including a school of cosmetology and/or beauty school that administers massage to the face, head, neck and shoulders only as part of cosmetic or beautifying processes.

4. Application for Massage Facility License; Fees:

Every applicant for a license to maintain, operate or conduct a Massage Facility shall file an application with the City Clerk's office upon the form provided by the City of Troy and pay the nonrefundable application fee, which is set forth in Chapter 60. The applicant shall provide the following information, the truthfulness of which shall be sworn to under oath:

- (a) A description of services to be provided.
- (b) The location, mailing address and all telephone numbers for the massage facility.
- (c) The name and permanent residential address of the applicant(s).
 - (1) If the applicant is a corporation, the names and permanent residential addresses of each of the officers, directors and resident agents of said corporation and of each stockholder owning more than ten (10) percent of the stock of the corporation; the address of the corporation itself, if different from the address of the massage facility; and the name and address of a resident agent in Oakland County, Michigan.
 - (2) If the applicant is a partnership, the names and permanent residential addresses of each of the partners and limited partners and of the partnership itself, if different from the address of the massage facility; and the name and address of a resident agent in Oakland County, Michigan.
- (d) Each applicant's two (2) immediately preceding addresses.
- (e) Proof that each individual applicant is at least eighteen (18) years of age.
- (f) The height, weight, sex and color of eyes and hair of each individual applicant or each partner of a partnership applicant.
- (g) A copy of identification, such as driver's license or government issued identification, which bears a date of birth for each individual applicant or each partner for a partnership applicant, or each officer, director, stockholder and resident agent for a corporation applicant.

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- (h) One front face current portrait photograph of the individual applicant(s), which is at least two inches by two inches (2" x 2"), and a complete set of the individual applicant(s) fingerprints, which shall be taken by the Chief of Police or his agent.
 - (1) If the applicant is a corporation, one front face current portrait photograph, which is at least two inches by two inches (2" x 2"), of all officers and resident agents of said corporation and a complete set of the same officers', directors' and resident agents' fingerprints, which shall be taken by the Chief of Police or his agent.
 - (2) If the applicant is a partnership, one front-face current portrait photograph, which is at least two inches by two inches (2" x 2") in size of each partner, including a limited partner in said partnership, and a complete set of each partner or limited partner's fingerprints, which shall be taken by the Chief of Police or his agents.
- (i) The business, occupation, or employment of the applicant(s) for the three (3) years immediately preceding the date of application.
- (j) The massage or similar business history of the applicant(s);
- (k) A statement of whether or not the applicant(s) currently operates or previously operated a massage business in this or another municipality or state;
- (l) A statement of whether or not the applicant(s) had a business license of any kind revoked or suspended and the reason for the suspension or revocation;
- (m) All of the individual applicant's criminal convictions (other than misdemeanor traffic violations not involving a controlled substance or alcohol), and the dates of conviction(s), the nature of the crime(s) and court or tribunal where the matter was adjudicated.
 - (1) If the applicant is a corporation, the criminal convictions (other than misdemeanor traffic violations not involving a controlled substance or alcohol), and the dates of conviction(s), the nature of the crime(s), and the court or tribunal where the matter was adjudicated for all of the officers and resident agents of the corporation.
 - (2) If the applicant is a partnership, the criminal convictions (other than misdemeanor traffic violations not involving a controlled substance or alcohol), and the dates of conviction(s), the nature of the crime(s), and the court or tribunal where the matter was adjudicated for each partner, including a limited partner in the partnership.

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- (n) The names, addresses, and birth dates for each massage therapist, as well as a photo copy of each massage therapist's driver's license, government issued identification, , or work VISA, and a copy of a State of Michigan massage license.
- (o) The names, addresses, and birth dates for each employee or independent contractor who is not a massage therapist but who is or will be employed in the Massage Facility, as well as a photo copy of each employee or independent contractor's driver's license, government issued identification, or work VISA. In addition, the employee or independent contractor's responsibilities or job titles must also be identified.
- (p) The name and addresses of any massage businesses facility or other facility owned operated or managed by any person whose name is required to be given in subsection 4(c).
- (q) A description of any other business(es) to be operated on the same premises or on adjoining premises which are managed, owned or controlled by the applicant(s).
- (r) An authorization for the City, its agents and employees to seek information and conduct an investigation to verify the veracity of the information contained in the application and the qualifications of the applicant(s), including but not limited to authorization to conduct a LEIN records check of all applicants, employees, officers, directors, managers, resident agents or stockholders.
- (s) The names, current addresses, phone numbers and notarized written statements of at least three (3) bona fide permanent residents of the United States that attest that the applicant is of good moral character. If possible, the notarized statements should be furnished from residents of the City of Troy. If the applicant verifies that he/she cannot provide these notarized statements from residents of the City of Troy, then the applicant can submit these required notarized statements from Oakland County residents. If the applicant verifies that he/she cannot provide these notarized statements from residents of Oakland County, then the required notarized statements could be from residents of the State of Michigan. If the applicant attests that he/she cannot obtain notarized statements from Michigan residents, then the City has the option to accept notarized statements or references from persons residing in the United States in satisfaction of this requirement. These notarized statements or references must be from persons other than applicant's relatives and business associates.
- (t) Evidence of current valid premises liability, workers compensation and general liability insurance for the massage facility, in an amount of two hundred fifty thousand dollars (\$250,000.00) or more.

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- (u) All information required by this section shall be provided at the applicant's expense.

At any time either before or after the issuance of a license, if there is any change to the above required information the Massage Facility licensee is required to notify the City of Troy of each such change immediately, but in no event more than ten (10) days after such change occurs. Any such change may result in a revocation of the Massage Facility License for failure to satisfy the City's license requirements.

5. License Procedures:

- (a) Any applicant for a Massage Facility license pursuant to this Chapter shall present to the City Clerk's office the application containing the aforementioned and described information. Once a fully completed application has been received by the City Clerk, it shall be referred to the Chief of Police or his/her designee, who shall have sixty (60) days in which to investigate the application and the background of the applicant(s). Based on such investigation, the Chief of Police, or his/her designee shall render a recommendation as to the approval or denial of the license to the City Clerk.

In making this determination, the Chief of Police shall consider:

- (1) The criminal or penal history of the applicant(s), including but not limited to actual criminal convictions for all or each of the applicants, massage therapists, employees, managers and independent contractors; civil judgments against all or each of the applicants, massage therapists, employees, managers and independent contractors; the circumstances of those convictions or judgments; and the demeanor of the applicant, massage therapists, employees, managers and independent contractors subsequent to his or her conviction or judgment.
- (2) The license history of the applicant(s), including but not limited to whether such person(s) has previously operated in this City or State, or in another state under a license, and has had such license or a permit revoked or suspended.
- (3) In addition, a Massage Facility will also be inspected for compliance with the requirements of this Chapter and compliance with all City ordinances and State laws by one or more City representatives, including but not limited to representatives of the Police Department, Fire Department, Building Inspections and/or Planning Department or their agents. Any inspection reports shall be forwarded to the City Clerk within forty five (45) days of the receipt

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of a fully completed application.

- (4) Any other considerations that the Chief of Police and/or his/her designee deems proper, provided such considerations are reasonable under the circumstances.

6. Issuance of License for a Massage Facility:

The City Clerk shall issue Massage Facility license if all requirements described in this Chapter are met, unless the City Clerk determines:

- (a) The number of Massage Licenses issued in the calendar year meets or exceeds the maximum number of Licenses permitted under Section 2 of this Chapter.
- (b) The Chief of Police recommends that the application be denied, based on a review of the factors considered in Section 5(a) of this Chapter.
- (c) The correct license fee has not been tendered to the City and/or, a check, or bank draft, given to the City has not been honored with payment upon presentation.
- (d) The operation, as proposed by the applicant(s), if permitted, would not comply with all applicable laws, including, but not limited to, the City's building, zoning and health regulations.
- (e) Conviction of any of the following crimes by the individual applicant(s), or any of the stockholders holding more than ten (10) percent of the stock of the corporation; or any of the officers, directors or resident agents, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the holder of any lien, of any nature, upon the business; or the manager or other person principally in charge of the operation of the business; or any employees or independent contractors:
 - (1) A felony offense involving the use of force or violence upon another person.
 - (2) A misdemeanor or felony sexual misconduct offense, including but not limited to prostitution.
 - (3) A felony offense involving narcotics, dangerous drugs or dangerous weapons.
- (f) The applicant(s) knowingly made any false or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith.

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- (g) The applicant(s) ever had a massage business facility or other similar license denied, revoked, rescinded or suspended by the City or a similar business license or permit denied by any other municipal entity and the denial, revocation, or suspension was based on criminal activity, fraud or a violation of the healthy, safety and welfare provisions of a municipal ordinance or State law.
- (h) If any massage therapist(s), employee(s), applicant(s), officer(s), directors, resident agent(s) partner(s), are under the age of eighteen (18) years.

7. Approval or Denial of Application:

The City Clerk shall act to approve or deny a completed Massage Facility License application within than sixty (60) days from the date that said application was accepted by the City Clerk's office.

Every license issued pursuant to this Chapter shall be valid for one year and must be renewed as required by this Chapter.

Applicant(s) denied a license, pursuant to these provisions, may appeal the denial to the City Council by submitting a written document that states the reasons why the license should be granted. Such appeal shall be filed within 28 days of the City Clerk's mailing of a written notification of denial. Upon receipt of an appeal, the City Clerk shall present the applicant's appeal and any additional responsive information from City Administration. After consideration of all submitted documentation, City Council shall vote on the appeal at a regularly scheduled City Council meeting. The City Council may affirm or reverse the denial of a license or take any other warranted action. City Council's decision shall be final.

8. Administrative Inspections of Facility.

- (a) A licensed massage facility may be inspected by City representatives at reasonable hours without prior notice to insure continued compliance with all City ordinances and State laws. These inspections can be completed by one of more City representatives, including but not limited to representatives of the Police Department, Fire Department, Building Inspections Department and/or Planning Department or their agents.
- (b) It is unlawful for any Massage Facility Licensee or employee or manager or partner or agent to refuse or fail to allow such inspection or to hinder such officer or inspector in any manner. Such refusal may constitute sufficient grounds for immediate suspension of a license granted under the provisions of this Chapter, based on the discretion of the City Official, and subject to the Due Process provisions outlined in Section 11.

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9. Posting of License:

Every Massage Facility licensed under this Chapter shall display the license in a prominent place at the Massage Facility.

10. Records of Employees:

(a) The licensee shall maintain a register of all persons employed or engaged as massage therapists for the licensee and/or on the licensed premises, and also of any volunteer or independent contractor or agent rendering any services, and identify the role and responsibilities of each such person. Such registry shall be maintained at the Massage Facility and made available upon request of representatives of the City of Troy.

(b) Each licensee is responsible for updating the information that is required under Section 4; including but not limited to the hiring of any new employees or massage therapists after the license has been issued. City Clerk approval of any new employee, massage therapist, volunteer or independent contractor is required before they can work or render any type of services at the Massage Facility.

(c) It shall be the responsibility of the licensee to ensure that each person employed or engaged in such business as a massage therapist shall have first obtained a valid massage therapist license pursuant to P.A. 471 of 2008, MCL 333.17951 et. seq. Any licensee who allows such person to perform, operate or practice without a license shall be in violation of this Chapter, and will be subject to suspension and/or revocation as enumerated in Section 11.

(d) No person shall practice or engage in the business of a massage therapist within the City without first having obtained a license pursuant to P.A. 471 of 2008, MCL 333. 17951 et. seq.

11. Suspension or Revocation of License; Notice and Hearing:

(a) When any of the provisions of this Chapter are violated by the licensee, an employee, manager, massage therapist, employee or independent contractor of the massage facility; and/or when any licensee, employee, manager, massage therapist, employee or independent contractor of the licensee is engaged in any conduct which violates any State law or City ordinance; or upon notification from the Oakland County Health Department that the Massage Facility is being managed, conducted, or maintained without regard to proper sanitation and hygiene; or for any good cause; the City Council of the City of Troy may suspend or revoke the Massage Facility License after notice and a due process hearing, as set forth below.

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- (b) For conditions posing an immediate threat to the public health, safety and welfare of the community, patrons, employees or others, the City Manager or his/her designee has the authority to immediately suspend any license granted hereunder, without notice or a hearing; provided, however, that City Administration shall make good faith efforts to provide written notice of the suspension to the licensee within seventy-two (72) hours of ordering the suspension, with the effective date and time of such suspension. This notification shall be hand delivered to the owner, or if the owner is not local, to the manager or other person in charge of the facility and also sent by first class mail to the licensee's last known address. A copy of the notice shall also be posted on the front door of the facility.
- (c) If the Massage Facility License is suspended pursuant to Section 11(a) or (b), then within 14 days of written notification, the licensee may submit a written request for a due process hearing before the Troy City Council. Upon receipt of such a request, the City Clerk shall schedule the requested hearing for the first available regular City Council meeting. There should be at least seven days between the receipt of the written hearing request and the regular City Council meeting, and also time to comply with any notice requirements of City Charter, City ordinance and State law.
- (d) Upon the scheduling of a due process hearing, the City Clerk shall send a written notice of the date and time of the hearing to the licensee at the licensee's last known address. Additionally, a copy of the notice of the hearing shall also be posted on the front door of the Massage Facility. The notice of hearing shall indicate that the City of Troy City Administration has initiated suspension and/or revocation proceedings, and shall state the reason for the suspension or requested revocation. The notice shall state the date, time and the location for the hearing, and shall notify the licensee that they are entitled to attend and provide City Council with any testimony or documentation to demonstrate why the Massage Facility License should not be suspended or revoked.
- (e) At the due process hearing, City staff and/or other concerned individuals will have the opportunity to present evidence and testimony supporting the suspension or requested revocation. The licensee should then be allowed to present evidence and testimony as to why the license should not be suspended or revoked. City Administration would then be permitted to provide any response to the licensee's testimony or documentation. Afterwards, the Troy City Council will issue a decision, which may revoke the Massage Facility License; suspend the Massage Facility License; reverse a City Administration ordered suspension; deny the requested revocation; or take any other action that is warranted. If City Council suspends the Massage Facility License, then City Council's resolution shall clearly specify the length of the suspension, as well as any

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conditions that must be satisfied or corrective action that must be taken prior to restoration of the Massage Facility License.

- (f) If the licensee fails to satisfy Council's articulated conditions for restoration of a suspended Massage Facility License within the time allocated to the licensee, then Council can revoke the Massage Facility License, without the need for a new hearing.
- (g) A City Council decision ordering revocation is final, and licensee's ability to appeal is only through the filing of a case in the Oakland County Circuit Court. Any such appeal must be filed within 21 days of the final decision and shall be governed by the Michigan Court Rules applicable to an appeal from an administrative agency under MCLA 660.631.

12. Reporting of Violations by Massage Therapists

In addition to the provisions of Section 11, when any of the provisions of this Chapter are violated, upon receipt of this information, the City Clerk shall report the incident to the Michigan Department of Licensing and Regulatory Affairs, and request that proper action be taken by the Regulatory agency.

13. Renewal of Massage Facility License:

An application to renew a license to operate a Massage Facility shall be filed at least fifteen (15) days prior to the date of license expiration. Such renewal shall be annual and shall be accompanied by the application fee.

- (a) The applicant(s) shall present the following information to the City Clerk's office for the renewal application:
 - (1) A sworn affidavit by the applicant(s) stating that the information contained in the original application has not changed, or if it has changed, specifically identifying the changes that have occurred.
 - (2) The names, addresses, birth dates and driver's license numbers of each massage therapist and each employee or independent contractor who is or will be employed or located in the Massage Facility.
 - (3) The names, addresses, birth dates and driver's license numbers of each individual who will be a manager, acting manager or in charge of each Massage Facility.
- (b) The application shall be referred to the Chief of Police who shall investigate the criminal history of the applicant(s) and any massage therapists, employees, managers and independent contractors listed as set out above.

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- (c) The City Clerk may decide not to renew a license based upon a determination by the Chief of Police, Fire Chief, or Building Official and/or their designee that any of the following exist:
 - (1) Violations of state laws or local ordinances, including applicable codes and regulations, concerning health, safety, moral conduct, or public welfare, by any licensee or employee of a licensee.
 - (2) Any advertising, promotion, or activity in connection with the licensed premises which by its nature causes, creates, or contributes to disorder, disobedience to rules, ordinances, or laws.
 - (3) Failure to permit an inspection pursuant to Section 8 of this Chapter.

14. Massage Facility Requirements:

No Massage Facility License shall be issued unless the appropriate inspectors from the Police Department, Fire Department or any other appropriate department of the City of Troy confirm that the Massage Facility complies with each of the following minimum requirements:

- (a) All provisions of the City codes and State law have been complied with, including but not limited to building, mechanical, plumbing, electrical and fire codes.
- (b) Adequate and appropriate bathing, dressing, locker, and toilet facilities are provided for patrons.
- (c) Rooms used for steam baths and showers shall be waterproof, and shall be constructed of approved waterproof materials and shall be installed in accordance with the City of Troy codes, including but not limited to the following:
 - (1) Floors, walls and ceilings of steam rooms and shower compartments shall be waterproofed with a smooth, readily cleanable, nonabsorbent material.
 - (2) Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sanitary sewer.
 - (3) A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.
- (d) The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering

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massages. Such non-disposable instruments and materials shall be disinfected after use on each patron.

- (e) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept separate from the clean storage areas. No common use of towels or linens is permitted.
- (f) A minimum of one separate washbasin shall be provided in each Massage Facility for the use of employees of any such Facility. The basin shall provide soap or detergent and hot and cold water at all times, and shall be located within or as close as practicable to the area devoted to the performing of massage services. In addition, there shall be provided at each washbasin sanitary single-use towels placed in permanently installed dispensers.

15. Operating Requirements:

- (a) Every portion of the Massage Facility, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
- (b) The price rates for all services at the Massage Facility shall be prominently posted in the reception area in a location available to all prospective customers.
- (c) The Massage Facility shall not be made available as sleeping quarters and/or accommodation for any person. No beds, water mattresses, cots, or equipment designed for sleeping shall be permitted on the premises.
- (d) All massage therapists and independent contractors massaging and/or attending patrons shall be clean and wear clean appropriate clothing. Scrub uniforms are preferred, but in any event, all clothing shall consist of non-transparent, washable or disposable material and shall be kept in a clean condition. Such clothing shall cover the person's pubic area, perineum, buttocks, natal cleft and the entire chest up to the collarbone. V-neck scrub tops are permitted, so long as the top covers the entire chest up to a height of four (4) inches below the collarbone. All employees and independent contractors giving massages shall wear slacks and a blouse or shirt, or a one-piece pants suit or coverall. Skirts or dresses shall not be permitted unless worn over opaque leg covering that covers waist to ankle or toe.
- (e) All massage facilities shall be supplied with and provide clean laundered sheets and towels in sufficient quantity. Sheets and towels shall be laundered after each use thereof and stored in a sanitary manner.

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- (f) Wet and dry heat rooms, steam or vapor rooms, or steam and vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation.
- (g) Massage Facility Licensees shall not place, publish, distribute or cause to be placed, published, or distributed any advertisement, picture, or statement which is known to be false, deceptive, or misleading or through the exercise of reasonable care should be known to be false, deceptive or misleading, in order to induce any person to purchase or utilize any professional massage services.

16. Persons under Age Eighteen Prohibited on Premises:

No person shall permit any person under the age of eighteen (18) years to come or remain on the premises of any Massage Facility as a massage therapist, employee, volunteer or independent contractor. A patron under the age of eighteen (18) years shall be accompanied by a parent or legal guardian, or have in his or her possession a signed parental or legal guardian consent form, consenting to his or her presence at the Massage Facility premises for the purpose of receiving a massage.

17. Hours:

Massage Facilities shall not be operated or kept open for any purposes between the hours of 10:00 p.m. and 6:00 a.m.

18. Unlawful Acts:

- (a) It shall be unlawful for any person in a Massage Facility to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage a sexual or genital part of any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.
- (b) It shall be unlawful for any person in a Massage Facility to expose his or her sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person in a Massage Facility to expose the sexual or genital parts, or any portions thereof, of any other person.
- (c) It shall be unlawful for any person, while in the presence of any other person in a Massage Facility, to fail to conceal the sexual or genital parts of his or her body with a fully opaque covering.(d)It shall be unlawful for any person owning, operating or managing a Massage Facility, or any agent, employee, or any other person under his or her control or supervision to perform such acts or allow the performance of such acts that are prohibited in subsections 18 (a), (b) or (c).

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- (d) Any violation of this Section may constitute sufficient grounds for immediate suspension of a license granted under the provisions of this Chapter, based on the discretion of the City Official, and subject to the Due Process provisions outlined in Section 11.

19. Sale, Transfer or Change of Location:

The Massage Facility License shall not be sold or transferred to another. Any sale, transfer, or relocation of a Massage Facility requires compliance with the application process under the provisions of this Chapter, and the Massage Facility License is null and void upon the transfer, sale, or relocation. All licensees having knowledge of the sale, transfer or relocation of a Massage Facility are required to immediately report such sale, transfer or relocation to the City Clerk's office. Failure to do so within thirty (30) days of the sale, transfer or relocation shall result in an immediate suspension of all business.

20. Name and Place:

No person granted a license pursuant to this Chapter shall operate a Massage Facility under a name that is not specified in their Massage Facility License, nor shall they conduct business under any designation or location that is not specified in their Massage Facility License.

21. Violation and Penalty:

Any person, whether acting as an individual, owner, manager, employee of the owner, or whether acting as an agent or independent contractor for the owner, employee or operator, or acting as a participant or worker in any way directly or indirectly who operates a Massage Facility who violates any provisions of this Chapter is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for a period not to exceed ninety (90) days and/or a fine not to exceed five hundred dollars (\$500.00), plus costs, at the discretion of the Court. Each day that a violation is permitted to exist constitutes a separate offense. This penalty is separate from any suspension or revocation of a Massage License, as enumerated in Section 11.

(Adopted: 10/23/2017; Enacted: 11-02-2017)