



OFFICE OF CITY CLERK

LICENSE APPLICATION - MASSAGE THERAPY BUSINESS

- INITIAL FEE – Non-refundable (\$300.00)
- RENEWAL FEE - Non-refundable (\$200.00)

BUSINESS NAME (DBA) _____

ADDRESS _____ FARMINGTON HILLS, MI

ZIP CODE _____ TELEPHONE _____ E-MAIL _____

HOURS OF OPERATION: _____

DESCRIPTION OF SERVICES BEING PROVIDED AT THIS BUSINESS:

STATE SALES TAX NO: _____

APPLICANT (owner) NAME _____

APPLICANT RESIDENTIAL ADDRESS _____

APPLICANT TELEPHONE _____ E-MAIL _____ CITY _____ ZIP _____

Note: IF APPLICANT IS A CORPORATION, PARTNERSHIP OR LIMITED LIABILITY COMPANY, COMPLETE EXHIBIT B OF LICENSE APPLICATION.

APPLICANT: MALE _____ FEMALE _____ DATE OF BIRTH: _____

HEIGHT _____ WEIGHT _____ HAIR COLOR _____ EYE COLOR _____

SOCIAL SECURITY #: _____ DRIVERS LICENSE # _____

WILL YOU, AS THE APPLICANT, BE WORKING AS A THERAPIST? Y ___ N ___
(If yes, please submit a copy of your name, address, state license, and driver's license)

WILL THERE BE ADDITIONAL THERAPISTS EMPLOYED BY THE BUSINESS? Y ___ N ___
(If yes, please submit a copy of each therapist's name, address, state license, and driver's license)

DO YOU, OR HAVE YOU EVER, OPERATED ANY OTHER MASSAGE BUSINESS OR MASSAGE RELATED ESTABLISHMENT IN THIS OR ANY OTHER CITY OR STATE?

YES _____ NO _____ IF YES, PROVIDE NAME AND ADDRESS:

NAME ADDRESS

NAME ADDRESS

IF YES, HAVE YOU EVER HAD A BUSINESS LICENCE REVOKED OR SUSPENDED?

YES _____ NO _____ IF YES, PLEASE EXPLAIN.

PROVIDE A DESCRIPTION OF ANY OTHER BUSINESS TO BE OPERATED ON THE SAME PREMISES OR ADJOINING PREMISES OWNED OR CONTROLLED BY THE APPLICANT:

I hereby certify that all of the above information is true and accurate to the best of my knowledge, and further understand and represent that if any changes to the above information are made, that said information will be supplied to the City immediately. I further understand that misstatements and inaccuracies in the application are grounds for immediate termination of said license. I hereby authorize the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for this license.

X _____ DATE _____
(APPLICANT'S SIGNATURE)

APPLICANT MUST SUBMIT, along with application and paid fees:

- Written proof (birth certificate or sworn affidavit) that the applicant is at least 18 years of age.
- One portrait photograph at least 2 inches by 2 inches taken within the last 30 days
- ICHAT criminal background report dated within 30 days of the date of the application (www.michigan.gov/ICHAT).
- Diploma or certificate of graduation from a recognized school or institution of learning wherein the method, profession and work of massage therapy is taught, IF applicant has this.
- Outline of business, occupation or employment of the applicant for three (3) years immediately preceding the date of application, identifying the time period, address and telephone number for each business, occupation or employment.
- Names, addresses and written statements of at least (3) bona fide permanent residents of the U.S. that the applicant is of good moral character - see Ordinance Sec.16-17 (12).
- An architectural floor plan showing the interior layout of the facilities and features to be located with the proposed massage therapy establishment.
- The prior addresses of the applicant for the preceding ten (10) years.
- Name and address of each massage therapist who is or will be employed in the establishment
- Copy of the State license issued to each such massage therapist
- Copy of the driver's license or other proof of identification for each massage therapist.

(OFFICE USE ONLY)

DEPARTMENT	APPROVE: Y/N	DATE OF APPROVAL	REMARKS
FIRE	_____	_____	_____
PLAN/BLDG/ZON	_____	_____	_____
POLICE	_____	_____	_____

EXHIBIT B – TO BE COMPLETED ONLY IF MORE THAN ONE OWNER

**LICENSE APPLICATION – MASSAGE THERAPY BUSINESS
(CORPORATIONS – PARTNERSHIPS – LIMITED LIABILITY COMPANY)**

Each officer, partner, or member listed on this Exhibit will be treated as an “applicant” for the massage business license and is subject to all investigations, processes, and stipulations per the City of Farmington Hills City Code.

If a Corporation, all officers owning more than 10% of stock in the company must provide application information. If partnership or limited liability company, each partner, limited partner, member manager and assignee of membership interest shall be an “applicant” and complete the following. Use a separate sheet for each applicant.

Corporation, Partnership or Company Name and Address:

Name of Business: _____

Business Address: _____

Name of Applicant (officer, partner, member): _____

ADDRESS: _____

SOCIAL SECURITY #: _____ DOB: _____

DRIVER'S LICENSE # _____ PHONE: _____

Name and address of any massage business or other establishment owned or operated by the applicant wherein the business or profession of massage therapy is carried on:

I hereby certify that all of the above information is true and accurate to the best of my knowledge, and further understand and represent that if any changes to the above information are made, that said information will be supplied to the City immediately. I further understand that misstatements and inaccuracies in the application are grounds for immediate termination of said license. I hereby authorize the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for this license.

X _____ DATE _____

(APPLICANT'S SIGNATURE)

APPLICANT MUST ALSO SUBMIT:

- Written proof (birth certificate or sworn affidavit) that the applicant is at least 18 years of age.
- One portrait photograph at least 2 inches by 2 inches taken within the last 30 days
- ICHAT criminal background report dated within 30 days of the date of the application.
- Outline of business, occupation or employment of the applicant for three (3) years immediately preceding the date of application, identifying the time period, address and telephone number for each business, occupation or employment.
- Names, addresses and written statements of at least (3) bona fide permanent residents of the US that applicant is of good moral character (see Ordinance Sec.16-17 (12)).

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF FARMINGTON HILLS
ORDINANCE NO. C-4-2010

AN ORDINANCE TO REGULATE MASSAGE THERAPY ESTABLISHMENTS, TO PROSCRIBE OPERATING REQUIREMENTS, TO PRESCRIBE CERTAIN CONDUCT, TO REQUIRE BUSINESS LICENSE AND MASSAGE THERAPIST LICENSES, AND TO PROTECT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE.

THE CITY OF FARMINGTON HILLS ORDAINS:

Section 1 of Ordinance. Ordinance Amendment.

Chapter 16, "Massage," of the City of Farmington Hills Code of Ordinances is hereby amended, in its entirety, to read as follows:

Chapter 16

MASSAGE

ARTICLE I. IN GENERAL

Sec. 16-1. Definitions.

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

Employee means any person over eighteen (18) years of age, other than a massage therapist, who renders any service in connection with the operation of a massage therapy establishment and receives compensation from the operator of the business or patrons.

Health club means a gymnasium, fitness center or health spa that is used to maintain or enhance the aerobic condition or physical strength of individuals through the use of free weights or weight lifting machinery, aerobic exercises, running and jogging, game courts or swimming facilities.

Licensee means the person to whom a license has been issued to own or operate a massage therapy establishment.

Massage therapy 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. Practice of massage therapy includes complimentary methods, including the external application of water, heat, cold, lubrication, salt scrubs, body wraps, or other topical preparations; and electromechanical devices that mimic or enhance the actions possible by the hands, under such circumstances

that it is reasonably expected that the person receiving the massage or some third person on his or her behalf will pay money or give any other consideration or a gratuity therefore. Massage therapy does not include medical diagnosis; high-velocity, low-amplitude thrust to a joint; electrical stimulation; application of ultrasound; or prescription of medicines.

Massage therapy establishment means any establishment having a source of income or compensation derived from the practice of massage therapy, and which has a fixed place of business where any person engages in or carries on any of the activities defined as massage therapy. This definition does not include a regularly licensed hospital or dispensary, a place where massage of the face is for cosmetic or beautifying purposes, or a place solely providing massage therapy in the course of prescribed medical treatment by a physician.

Massage therapist means any person who, for any consideration whatsoever, engages in the practice of massage therapy.

Outcall massage therapy service means any business, the function of which is to engage in or carry on massage therapy at a location designated by the customer or client rather than at a massage therapy establishment.

Patron means any person over eighteen (18) years of age, or a person under eighteen (18) years of age who is accompanied by a parent or guardian or is in possession of a prescription for massage therapy issued by a licensed physician, who receives massage therapy under such circumstances that it is reasonably expected that he will pay money or give any other consideration therefore.

Licensee means the person to whom a license has been issued to act in the capacity of a massage therapist.

Recognized school means any school or educational institution in the state in which it is located or any school recognized by or approved by or affiliated with the American Massage Therapy Association, Inc., (AMTA), the International Myomassethics Federation (IMF), or the Associated Bodywork and Massage Professionals (ABMP) and which has for its purpose the teaching of the theory, method, profession or work of massage therapy, which school requires a resident course of study not less than five hundred (500) hours before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning.

Sexual or genital area means genitals, pubic area, anus, or perineum of any person.

Sec. 16-2. Exemptions.

(a) This chapter 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, podiatrists and physical therapists who are duly licensed to practice their respective professions in the state;
- (2) Nurses who are registered under the laws of this state;
- (3) Barbers, cosmetologists and manicurists who are duly licensed by the State of Michigan, but only to the extent they are performing functions licensed pursuant to their licensing by the State of Michigan;
- (4) Trainers for any amateur or professional athlete or athletic team or school athletic program; and

(5) Any person while engaged in a practice or profession listed in MCL 333.17957(1) or (3).

(b) The massage therapy establishment licensing requirements of this chapter shall not apply to any establishment where massage therapy is offered as an accessory service, provided massage therapy shall be considered an accessory service only if the area devoted to providing massage therapy services occupies fifteen percent (15%) or less of the floor area within the establishment.

Sec. 16-3. Register of employees.

The licensee or person designated by the licensee of a massage therapy establishment shall maintain a register of all persons employed at any time as massage therapists and their license or license numbers. Such register shall be available at the massage therapy establishment to representatives of the City at all times when the massage therapy establishment is open for business.

Sec. 16-4. Operating requirements generally.

(a) Every portion of the massage therapy establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.

(b) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

(c) All employees, including massage therapists, shall be clean and wear clean, nontransparent outer garments, covering the sexual and genital areas, whose use is restricted to the massage therapy establishment. If employees are licensed to change clothing at the premises, a separate dressing room for each sex must be available on the premises with individual lockers for each employee. Employee dressing rooms shall be separate from facilities utilized by customers.

(d) All massage therapy establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.

(e) No massage therapy establishment granted a license under the provisions of this chapter shall place, publish or distribute or cause to be placed, published or distributed any advertisement picture or statement which is known 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.

Sec. 16-5. Minors.

No person shall permit any person under the age of eighteen (18) years to come or remain on the premises of any massage business establishment as a massage therapist, employee, or patron, unless such person is accompanied by a parent or guardian, has a prescription for massage therapy issued by a licensed physician, or is on the premises for lawful business reasons unrelated to receiving or giving massage therapy.

Sec. 16-6. Alcoholic liquor.

No person shall sell, give, dispense, provide, keep, or cause to be sold, given, dispensed, provided or kept any alcoholic liquor on the premises of any massage therapy establishment.

Sec. 16-7. Hours.

No massage therapy establishment regulated under this chapter shall be kept open for any purpose between the hours of 9:00 p.m. and 8:00 a.m.

Sec. 16-8. Massage therapist required to have license.

No person shall employ as a massage therapist any person unless the employee has obtained and has in effect a license to practice massage therapy issued pursuant to this chapter or a license issued pursuant to the laws of the State of Michigan, including the Public Health Code, 1978 PA 368, as amended. This section shall not apply to students of massage therapy that are actively enrolled in a recognized school and engaged in the performance of massage therapy, without compensation of any kind for such services, as part of the curriculum or an externship or internship program required by the recognized school in which they are enrolled.

Sec. 16-9. Inspections.

The police chief or his designee shall be authorized to make inspections of each massage therapy establishment for the purposes of determining that the provisions of this chapter are fully complied with. If in the opinion of the police chief (or his designee) there is probable cause to enter a massage therapy establishment for the purpose of making inspections and examinations pursuant to this section, he shall request the owner or occupant thereof, or the licensee, to grant permission for such entry, and if refused, the police chief or his designee, shall make application for a search warrant showing why the search warrant should be issued for the purposes set forth in this chapter. The building official or fire chief, or their designees, shall similarly have the authority to inspect the premises of a massage therapy establishment in order to determine compliance with the provisions of this chapter, upon request to the owner or occupant thereof, or the licensee. If entry is denied, the building official or fire chief shall report the denial to the police chief or his designee for appropriate action consistent with this section.

Sec. 16-10. Unlawful acts.

(a) It shall be unlawful for any person in a massage therapy establishment to place his hands upon, to touch with any part of his body, to fondle in any manner, and to massage the sexual or genital area of any other person.

(b) It shall be unlawful for any person in a massage therapy establishment to expose his sexual or genital area or any portion thereof to any other person. It shall also be unlawful for any person in a massage therapy establishment to expose the sexual or genital area 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 therapy establishment to fail to conceal with a fully opaque covering the sexual or genital area of his body.

(d) It shall be unlawful for any person owning, operating or managing a massage therapy establishment, knowingly to cause, allow or permit in or about such massage therapy establishment any agent, employee, or any other person under his control or supervision to perform such acts prohibited in subsections (a), (b) or (c) of this section.

(e) Any violation of these provisions shall be deemed grounds for revocation of any license or licenses granted pursuant to article II or article III of this chapter

Sec. 16-11. Penalty for violations.

Every person, except those persons who are specifically exempted by this chapter, whether acting as an individual owner, employee of the owner, operator or employee of the operator, or whether acting as a mere agent or independent contractor for the owner, employee or operator, or acting as a participant or worker in any way directly or indirectly who gives massage therapy or operates a massage therapy establishment or any of the services defined in this chapter without first obtaining a license to do so from the City and paying a fee or who shall violate any provision of this chapter shall be guilty of a misdemeanor and upon conviction such person shall be punished as provided in section 1-13 of this Code. Any violation of this chapter is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

Sec. 16-12 through Sec. 16-15 - Reserved

ARTICLE II. BUSINESS LICENSE

Sec. 16-16. Required.

No person shall engage in or carry out the business of a massage therapy establishment unless he has, or is engaged in activity as licensed under, a valid massage therapy establishment license issued by the City pursuant to the provisions of this chapter for each and every separate office or place of business conducted by such person.

Sec. 16-17. Application.

(a) *Filing, fee.* Every applicant for a license to maintain, operate, or conduct a massage therapy establishment shall annually file a completed application under oath with the City Clerk upon a form provided by the Clerk and pay a nonrefundable annual license fee as set from time to time by resolution of the council.

(b) *Inspections of premises.* Copies of the application, once a complete submittal has been made, shall be referred to the Fire Department and Department of Planning and Community Development. The departments shall inspect the premises proposed to be operated as a massage therapy establishment and shall make written verification to the City Clerk concerning compliance with the codes of the City that they administer and this ordinance. The inspections shall be conducted by personnel as determined to be appropriate by each department, and may include additional inspections or re-inspections by additional personnel to determine compliance.

(c) *Investigation of applicants.* The application shall also be referred to the Police Department for investigation of the applicant's character and qualifications.

(d) *Contents.* Each application shall contain all of the following information:

- (1) A definition of service to be provided.
- (2) The location, mailing address and all telephone numbers where the business is to be conducted.
- (3) The name and residence address of the applicant, and:
 - a. 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 ten (10) percent of the stock of the corporation, each of which shall be considered to be an applicant under this chapter, and the address of the corporation itself, if different from the address of the massage therapy establishment;

b. If the applicant is a partnership, the names and residence addresses of each of the partners including limited partners, each of which shall be considered to be an applicant under this chapter, and the address of the partnership itself, if different from the address of the massage therapy establishment; or

c. If the applicant is a limited liability company, the names and addresses of each member, manager and assignee of membership interest, each of which shall be considered to be an applicant under this chapter, and the address of the limited liability company, if different from the address of the massage therapy establishment.

(4) The prior addresses of the applicant for preceding ten (10) years.

(5) Proof that the applicant is at least eighteen (18) years of age.

(6) Applicant's height, weight, color of eyes and hair, and sex.

(7) Social security number, driver's license number, if any, and date of birth. If the applicant is a corporation, such information shall be provided for all officers and managing agents of the corporation. If the applicant is a partnership, such information shall be provided for each partner, including each limited partner in the partnership. If the applicant is a limited liability company, such information shall be provided for each member, manager and assignee of membership interest.

(8) One (1) front-face portrait photograph of the applicant at least two (2) inches by two (2) inches. If the applicant is a corporation, one (1) front-face portrait photograph at least two (2) inches by two (2) inches of all officers and managing agents of the corporation. If the applicant is a partnership, one (1) front-face portrait photograph at least two (2) inches by two (2) inches in size of each partner, including each limited partner in the partnership. If the applicant is a limited liability company, one (1) front-face portrait photograph at least two (2) inches by two (2) inches in size of each member, manager and assignee of membership interest. All portrait photographs supplied pursuant to this subsection shall be in color and shall have been taken within thirty (30) days of the date of submitting the application.

(9) Business, occupation, or employment of the applicant for three (3) years immediately preceding the date of application, identifying the time period, address and telephone number for each business, occupation or employment.

(10) The massage or similar business license history of the applicant; including whether such person, in previously operating in this or another city or state has had a business license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.

(11) A criminal background report of the applicant's criminal history through the Internet Criminal History Access Tool (ICHAT). If the applicant is a corporation, an ICHAT criminal background report for all officers and managing agents of the corporation. If the applicant is a partnership, an ICHAT criminal background report for each partner, including each limited partner in the partnership. If the applicant is a limited liability company, an ICHAT criminal background report for each member, manager and assignee of membership interest. The applicant is responsible for all charges incurred in requesting and receiving the ICHAT report(s) and the report(s) must be dated within 30 days of the date of the application.

(12) The names, current addresses and written statements of at least three (3) bona fide permanent residents of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the city, then the county, then the state and lastly from the rest of the United States. These references must be persons other than relatives and business associates.

(13) The name and address of each massage therapist who is or will be employed in the establishment.

(14) A diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage therapy is taught, provided, however, that if the applicant will not himself engage in the practice of massage therapy, he need not possess such diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage therapy is taught.

(15) The name and address of any massage business or other establishment owned or operated by any person whose name is required to be given in subsection (3) of this section wherein the business or profession of massage therapy is carried on.

(16) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.

(17) An architectural floor plan showing the interior layout of and the facilities and features to be located within the proposed massage therapy establishment.

(18) Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.

(19) Any other information pertinent to the application and operation of the proposed facility as may be required by this chapter or relevant to the required reviews of the application.

(20) 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.

Upon completion of the above provided form and the furnishing of all information required by this section the City Clerk shall accept the application for the necessary inspections and investigations. The holder of a massage therapy establishment license shall notify the City Clerk of each change in any of the data required to be furnished under this section within ten (10) days after such change occurs.

Sec. 16-18. Facilities required.

No license to conduct a massage therapy establishment shall be issued unless an inspection by the City reveals that the establishment complies with each of the following minimum requirements:

(1) Construction of rooms used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproofed materials and shall be installed in accordance with the state construction code. Plumbing fixtures shall be installed in accordance with the state construction code:

- a. Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the department of building and safety.
- b. Floors of wet and dry heat rooms shall be adequately pitched to one (1) or more floor drains properly connected to the sewer. Exception: Dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.
- c. A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.

(2) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massage therapy. Such nondisposable instruments and materials shall be disinfected after use on each patron.

(3) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massage therapy. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.

(4) Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one (1) water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

(5) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels.

(6) All electrical equipment shall be installed in accordance with the requirements of the state construction code.

(7) It shall be unlawful for any massage therapy service to be carried on within any cubicle, room, booth, or any area within a massage therapy establishment which is fitted with a door capable of being locked. Doors shall be provided with a sign, light or other signaling device to indicate when the cubicle, room, booth or area is occupied and massage therapy is being provided.

(8) Nothing contained in this section shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof, whenever such inspection is deemed necessary by the Police Department, Building Official, Code Officer, Fire Marshal or any other authorized officer or agency.

Sec. 16-19. Grounds for grant or denial.

In determining whether to grant or deny a license for a massage therapy establishment, the City Clerk shall consider the reports that have been provided by each of the City departments upon completing their respective inspections and investigations and all of the following:

- (1) Whether the correct license fee has been tendered to the City and, in the case of a check, or bank draft, honored with payment upon presentation.

- (2) The applicant's experience in managing a massage therapy establishment or in managing similar establishments.
- (3) The applicant's general business management experience.
- (4) The applicant's general business reputation.
- (5) The applicant's moral character.
- (6) Whether the applicant if an individual, or any of the stockholders holding more than ten (10) percent of the stock of the corporation or any of the officers and directors if the applicant is a corporation, any of the partners including limited partners if the applicant is a partnership, or any of the members, or managers or assignees of membership interest if the applicant is a limited liability company, or the manager or other person principally in charge of the operation of the business, have been convicted of any of the following offenses or convicted of an offense outside the state that would have constituted any of the following offenses if committed within the state:
 - a. An offense involving the use of force and violence upon the person of another that amounts to a felony;
 - b. An offense involving sexual misconduct; or
 - c. An offense involving narcotics, dangerous drugs or dangerous weapons that amounts to a felony.
- (7) The effects that the proposed facility would have upon the surrounding neighborhood and business establishments, including impacts upon residential areas, church and school districts.
- (8) Whether the operation, as proposed by the applicant, if licensed would comply with all applicable laws and City ordinances, including but not limited to the City's building, zoning, fire and health, safety and welfare regulations. If the facility is to be located in a proposed building for which site plan approval has not been obtained, or in an existing building that is to be remodeled, the City Clerk may give conditional approval of a license, contingent upon the granting of a final certificate of occupancy for the facility.
- (9) Whether the applicant has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith;
- (10) Whether the applicant has had a massage therapy business, massage therapist, or other similar permit or license denied, revoked, or suspended by the City or any other state or local agency within five (5) years prior to the date of the application;
- (11) Whether the applicant if an individual, or any of the officers or directors if the applicant is a corporation, or any of the partners including limited partners if the applicant is a partnership, or any of the members, managers or assignees of membership interest if the applicant is a limited liability company, or the manager or other person principally in charge of the operation of the business, is not over the age of eighteen (18) years.
- (12) Such other considerations as the City Clerk may deem proper, provided such considerations are reasonable under the circumstances.

Sec. 16-20. Approval or denial of application.

The City Clerk shall act to approve or deny an application for a license under this article within a reasonable period of time and in all events the City Clerk shall act to approve or deny the license no later than ninety (90) days from the date that the application was accepted by the City Clerk.

Sec. 16-21. Display.

Every person, corporation, partnership, or association licensed pursuant to this article shall display such license in a prominent place.

Sec. 16-22. Multiple locations of business.

Should any massage therapy establishment have more than one (1) location where the business of massage therapy is pursued, then a license stating both the address of the principal place of business and of the other locations shall be issued by the City Clerk upon the tender of a license fee as set by resolution of the council. Licenses issued for other locations shall terminate on the same date as that of the principal place of business, regardless of the date of issuance.

Sec. 16-23. Sale, transfer, change of location of establishment.

Upon sale, transfer or relocation of a massage therapy establishment, the license therefore shall be null and void unless approved as provided in section 16-24 provided, however, that upon the death or incapacity of the licensee or any co-licensee of the massage therapy establishment, any heir or devisee of a deceased licensee or any guardian of an heir or devisee of a deceased licensee may continue the business of the massage therapy establishment for a reasonable period of time not to exceed sixty (60) days to allow for an orderly transfer of the license.

Sec. 16-24. Transferability.

No license shall be transferable except with the consent of the City by approval of the City Clerk. An application for such transfer shall be in writing and shall be accompanied by the fee required in section 16-17. The written application for such transfer shall contain the same information as requested in this article for initial application for the license.

Sec. 16-25. Operation under name or at place not specified.

No person granted a license pursuant to this article shall operate the massage therapy establishment under a name not specified in his license nor shall he conduct business under any designation or location not specified in his license.

Sec. 16-26. Expiration.

Every license issued pursuant to this article will terminate December 31 of each year unless sooner suspended or revoked.

Sec. 16-27. Revocation, suspension.

Any license issued for a massage therapy establishment may be revoked or suspended after notice and a hearing for good cause or in any case where any of the provisions of this chapter are violated or where any employee of the licensee, including a massage therapist, is engaged in any conduct which violates any of the state or local laws or ordinances at the licensee's place of business and the licensee has actual or constructive knowledge by due diligence. Revocation proceedings shall be conducted by an administrative hearing officer appointed by the council by resolution. Upon appointment, such individual shall serve as requested. The qualifications of the hearing officer shall include familiarity with building and health codes or other state or local laws or ordinances. The hearing officer shall provide notice of the hearing to the applicant, who shall be given opportunity to be heard and to present evidence on his behalf directly or by authorized representative(s). The notice and hearing shall occur within a reasonable time. The decision of the hearing officer may be appealed to the Oakland County Circuit Court.

Sec. 16-28 through Sec. 16-30 -Reserved

ARTICLE III. MASSAGE THERAPIST LICENSE

Sec. 16-31. Required.

Except as provided in Section 16-2, 16-40 and herein, no person shall practice massage therapy as a massage therapist, employee or otherwise, unless he has secured a valid and subsisting massage therapist's license issued to him by the City pursuant to the provisions of this article. This section shall not apply to students of massage therapy that are actively enrolled in a recognized school and engaged in the performance of massage therapy, without compensation of any kind for such services, as part of the curriculum or an externship or internship program required by the recognized school in which they are enrolled.

Sec. 16-32. Application.

Application for a massage therapist's license shall be made to the City Clerk and a massage therapist's license secured before the massage therapist may engage in any activity regulated under this chapter, and shall be accompanied by the annual nonrefundable massage therapist's license fee as set from time to time by resolution of the council. The application shall contain, but not be limited to, all of the following:

- (1) The business address and all telephone numbers where the massage therapy is to be practiced.
- (2) Name and residence address, and all names, nicknames and aliases by which the applicant has been known, including the two (2) previous addresses immediately prior to the present address of the applicant.
- (3) Social security number, driver's license number, if any, and date of birth.
- (4) Applicant's weight, height, color of hair and eyes, and sex.
- (5) Written evidence that the applicant is at least eighteen (18) years of age.
- (6) A criminal background report of the applicant's criminal history through the Internet Criminal History Access Tool (ICHAT).
- (7) Two (2) front-face color portrait photographs taken within thirty (30) days of the date of application and at least two (2) inches by two (2) inches in size.

(8) The name and address of the recognized school attended, the dates attended and a copy of the diploma or certificate of graduation awarded the applicant showing the applicant has completed not less than five hundred (500) hours of instruction.

(9) Proof of current basic certification by International Myomassethics Federation (IMF), the American Massage Therapy Association (AMTA), the Associated Bodywork and Massage Professionals (ABMP), or other national massage therapy organization with comparable certification requirements.

(10) The massage therapy or similar business history and experience ten (10) years prior to the date of application, including but not limited to whether or not such person in previously operating in this or another city or state under license or permit has had such license or permit denied, revoked, or suspended and the reasons therefore, and the business activities or occupations subsequent to such action of denial, suspension or revocation.

(11) The names, current addresses and written statements of at least five (5) bona fide permanent residents other than relatives, of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the city, then the county, then the state and lastly from the rest of the United States.

(12) A medical certificate signed by a physician licensed to practice in the state within seven (7) days of the date of the application stating that the applicant was examined by the certifying physician and that the applicant is free of communicable disease. The additional information required by this subsection shall be provided at the applicant's expense.

(13) Such other information, identification and physical examination of the person deemed necessary by the Police Chief in order to discover the truth of the matters required by this section to be set forth in the application.

(14) Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.

(15) Written declaration by the applicant, under penalty or perjury that the foregoing information contained in the application is true and correct, such declaration being duly dated and signed in the City.

Sec. 16-33. Waiver of educational requirement.

The City shall waive the requirements of subsection 16-32(9) if the applicant furnishes satisfactory evidence that he attended not less than five hundred (500) hours of instruction in a school within or without this state or in any foreign country that provides education substantially equal to or in excess of the educational requirements of this article.

Sec. 16-34. Review of license; grounds for denial.

Applications for massage therapist licenses shall be referred to the Police Department for investigation of the applicant's character and qualifications, and the Police Department shall issue a report to the City Clerk upon completion of such investigation. The City Clerk shall issue a license for a massage therapist, after determination by the City Clerk that requirements for a massage therapist license described by this article are met unless the City Clerk finds any of the following apply:

(1) The correct license fee has not been tendered to the City and, in the case of a check, or bank draft, honored with payment upon presentation.

(2) The applicant has been convicted of any of the following offenses or convicted of an offense outside the state that would have constituted any of the following offenses if committed within the state:

- a. Any felony;
- b. An offense involving sexual misconduct; or
- c. An offense involving fraud, misrepresentation, dishonesty, theft, narcotics, dangerous drugs or dangerous weapons.

The City may issue a license to any person convicted of any of the crimes described in subsection (2) of this section if it finds that such conviction occurred at least five (5) years prior to the date of the application and the applicant has had no subsequent felony convictions of any nature and no subsequent misdemeanor convictions for crime mentioned in this section.

(3) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith.

(4) The applicant has had a massage therapy business, massage therapist, or other similar license or permit denied, revoked, or suspended by the City or any other state or local agency within five (5) years prior to the date of the application.

(5) The applicant is not over the age of eighteen (18) years.

Sec. 16-35. Approval or denial of application.

The City shall act to approve or deny an application for a license under this article within a reasonable period of time and the City shall in all events act to approve or deny the license within ninety (90) days from the date that the completed application was accepted by the City Clerk.

Sec. 16-36. Posting.

Every massage therapist shall post the license required by this article in his work area, and if the massage therapist provides massage therapy in any other location, the license shall be on his person at all times and displayed upon request.

Sec. 16-37. Transferability.

No license shall be transferable except with the consent of the City and ratified by approval of the City Clerk. An application for such transfer shall be in writing and shall be accompanied by the fee required in section 16-32. The written application for such transfer shall contain the same information as requested in this article for initial application for the license.

Sec. 16-38. Expiration.

Every license issued pursuant to this article will terminate December 31 of each year unless sooner suspended or revoked.

Sec. 16-39. Revocation.

A massage therapist license issued by the City Clerk shall be revoked or suspended where it appears that the massage therapist has been convicted of any offense which would be cause for denial of a license upon an original application, has made a false statement on an application for a license, or has committed an act in violation of this chapter. Such revocation proceedings shall be held by the City Manager within a reasonable time after notice of time and place of hearing and notice of cause for revocation.

Sec. 16-40. Preemption; exemption.

The requirements of this Article III relating to the issuance of a license for a massage therapist shall not apply to an individual licensed as a massage therapist, as defined herein, under the laws of the State of Michigan, including the Public Health Code, 1978 PA 368, as amended, to the extent such law expressly preempts this Article. However, for each such individual employed by a licensee hereunder in a massage therapy establishment as defined herein, the licensee shall provide to the City Clerk:

- a. The name and address of each massage therapist who is or will be employed in the establishment;
- b. A copy of the license issued to each such massage therapist; and
- c. A copy of the driver's license or other proof of identification for the massage therapist.

Section 2 of Ordinance

Repealer. Ordinance No C-8-86, Massage, Chapter 16 of the Code of Farmington Hills, Sections 16-1 through 16-44, is hereby repealed. All other ordinances, parts of ordinances or sections of the City Code in conflict with this Ordinance are repealed only to the extent necessary to give this Ordinance full force and effect and the Farmington Hills Ordinance Code shall remain in full force and effect amended only as specified above.

Section 3 of Ordinance

Savings. The amendment of the Farmington Hills Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Farmington Hills Code of Ordinances set forth in this Ordinance.

Section 4 of Ordinance

Severability. If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any Court of competent jurisdiction, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated, and such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

