

## Chapter 8

### BUSINESS REGULATIONS\*

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## BUSINESS REGULATIONS

### ARTICLE I. IN GENERAL

**Secs. 8-1 – 8-30. Reserved.**

### ARTICLE II. MESSAGE ESTABLISHMENTS

#### DIVISION 1. GENERALLY

##### **Sec. 8-31. Definitions.**

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

*Employee* means any person over 18 years of age, other than a massagist, who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or patrons.

*Good moral character*, for the purpose of licensing and permitting, means the propensity on the part of the person to serve the public in the licensed area in a fair, honest and open manner.

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

*Massage* means the treating or external parts of the body for remedial or hygienic purposes, consisting of stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided will pay money therefor.

*Massage establishment* and *massage parlor* mean any establishment which engages in the practice of massage and which has a fixed place of business where any person carries on any of

the activities as defined in the definition of massage in this section. The term “massage establishment” includes a health club, health spa, or any physical fitness club or business that offers massages on occasion or incidental to its principle operation.

*Massagist, masseur* and *masseuse* mean any person who, for any consideration whatsoever, engages in the practice of massage.

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

*Patron* means any person over 18 years of age who receives a massage under circumstances that it is reasonably expected that he will pay money or give any other consideration therefor.

*Permitee* means the person to whom a permit has been issued to act in the capacity of a massagist, masseur or masseuse.

*Prostitution* means engaging in sexual activity as a business, including:

- (1) The fondling or other erotic touching of human genitals, public region, buttocks or female breasts;
- (2) Acts of human masturbation, fellatio, sexual intercourse or sodomy; or
- (3) Homosexual and other deviant sexual relations.

*Recognized school* and *massage school* mean any school or educational institution licensed to do business as a 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 and Therapy Association, Inc., and which has for its purpose the teaching of the theory, method, profession, or work of massage.

*Sexual or genital area* means the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

*Student* means any person who, under the guidance of an instructor in a massage school, is being trained or instructed in the theory, method or practice of massage.

Ord. No. 00-183, § 86-2, 12-20-2000)

Cross reference – Definitions generally, § 1-2.

#### **Sec. 8-32. Violations; penalty.**

Any person, except those who are specifically exempted by this article, 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 massages or operates a massage establishment or any service defined in this article without first obtaining a license or permit and paying a fee to do so from the city or shall violate any provisions of this article shall be deemed guilty of a municipal civil infraction. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. No. 00-183, § 86-25, 12-20-2000)

#### **Sec. 8-33. Exemptions.**

(a) This article 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, or physical therapists who are fully licensed to practice their respective professions in the state.
- (2) Nurses who are registered under the laws of the state.
- (3) Barbers and cosmetologists who are duly licensed under the laws of the state, except that this exemption shall apply solely to the massaging of the neck, face, scalp, hair, upper back, and shoulders of the customer for cosmetic or beautifying purposes, while both customer and barber or cosmetologist are fully clothed.

(b) In any prosecution for violation of this article, the exemptions in subsection (a) of this section shall constitute affirmative defenses and it shall be incumbent upon the defendant to show that he or the place involved is not subject to the provisions in this article. Nothing contained in this section shall be deemed to shift the burden of proof of the violation to the defendant.

(Ord. No. 00-183, § 86-4, 12-20-2000)

#### **Sec. 8-34. Records of employees and patrons.**

(a) The license or the person designated by the licensee of a massage establishment shall maintain a register of all persons employed or engaged as massagists. Included in the register will be a copy of each massagist permit. Such register shall be available at the massage establishment to representative of the city during regular business hours.

(b) Every patron shall furnish proof of identity by showing a valid driver's license, voter registration certificate or similar identification.

(Ord. No. 00-183, § 86-10, 12-20-2000)

#### **Sec. 8-35. Required facilities.**

No license to conduct a massage establishment shall be issued inspectors of the city reveal that the establishment complies with each of the following minimum requirements:

- (1) All provisions of the applicable building, plumbing, fire, electrical and health codes have been fulfilled.
- (2) A recognizable and readable sign shall be posted at the main entrance identifying the establishment as a massage establishment; all signs shall comply with the sign requirements of the city.
- (3) There shall be no entrance or exit way which provides direct access to another type of business, residence or living quarters.
- (4) During business hours the premises shall remain open and no exits, en-

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- trances or secondary doorways shall be locked or obstructed in any way to prevent the immediate free ingress or egress of persons.
- (5) Minimum ventilation shall be provided in accordance with the state construction code.
  - (6) Minimum lighting shall be provided in accordance with the state construction code, and in addition at least one artificial light of not less than 60 watts shall be provided in each enclosed room or booth where massage services are performed.
  - (7) Adequate bathing, dressing, locker, and toilet facilities shall be provided for patrons. A minimum of one tub or shower, one dressing room and , if clothing and personal property is not kept with the patron, a separate locker for each patron to be served, which shall be capable of being locked, as well as a minimum of one toilet and one washbasin, shall be provided. However, if male and female patrons are to be served simultaneously at the establishment, separate massage rooms and separate dressing, bathing, and toilet facilities shall be provided for male and female patrons.
  - (8) Construction of rooms used for toilets, steam baths and showers shall be made waterproof with approved waterproofed materials which shall be installed in accordance with the state construction code.
    - a. Steam rooms and shower compartments shall have waterproof floors, walls and ceilings.
    - b. Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sewer.
    - c. A source of hot water must be available within the immediate vicinity of dry or wet heat rooms to facilitate cleaning.
  - d. 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. Bathtubs and/or showers shall be thoroughly cleaned after each use.
  - (9) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after each use on each patron.
  - (10) 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 shall be permitted.
  - (11) A minimum of one separate washbasin shall be provided in each room where a massage is to occur for the use of employees of any such establishment. 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 towels placed permanently installed dispensers.
- (Ord. No. 00-183, § 86-14, 12-20-2000)

### **Sec. 8-36. Operating requirements.**

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

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

(c) The premises shall not be made available for accommodating any person as sleeping quarters. No beds, water mattresses, cots, or equipment designed for sleeping shall be permitted on the premises, and there shall be no viewing of movies on the premises.

(d) No massage shall be performed in a private room with a door capable of being locked or barred. Reasonable measures may be used to offer privacy to patrons such as partitions, walls, curtains and the like.

(e) All employees, including massagists and other employees attending patrons, shall be clean and wear clean uniforms which fully cover the torso. Such uniforms shall be nontransparent and of washable material and shall be kept in a clean condition. Such clothing shall cover the person's pubic area, perineum, buttocks, natal cleft, chest, shoulders, and legs not exposed more than two inches above the knees.

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

(g) No massage establishment granted a license under the provisions of this article 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.

(Ord. No. 00-183, § 86-15, 12-20-2000)

### **Sec. 8-37. Persons under age 18 prohibited on premises.**

No person shall permit any person under the age of 18 years to come or remain on the premises of any massage business establishment, as massagist, employee, or patron, unless

such person is on the premises for lawful business.

(Ord. No. 00-183, § 86-16, 12-20-2000)

### **Sec. 8-38. Alcoholic liquor.**

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

(Ord. No. 00-183, § 86-17, 12-20-2000)

### **Sec. 8-39. Hours.**

No massage business shall be kept open for any purposes between the hours of 9:30 p.m. and 6:30 a.m.

(Ord. No. 00-183, § 86-18, 12-20-2000)

### **Sec. 8-40. Employment of massagist.**

No person shall employ as a massagist any person unless the employee has obtained and has in effect a permit issued pursuant to this article.

(Ord. No. 00-183, § 86-19, 12-20-2000)

### **Sec. 8-41. Inspections.**

The chief of police or other authorized inspectors of the city shall from time to time inspect each massage business establishment for the purposes of determining that the provisions of this article are fully complied with. It shall be unlawful for any licensee to fail to allow such inspection officer access to the premises or hinder such officer in any manner.

(Ord. No. 00-183, § 86-20, 12-20-2000)

### **Sec. 8-42. Unlawful acts.**

(a) It shall be unlawful for any person, in a massage establishment, to place his hands upon, to touch with any part of his 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.

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

(d) It shall be unlawful for any person, while in the presence of any other person owning, operating or managing a massage establishment, any agent, employee or any other person under his control or supervision to perform such acts prohibited in subsection (a) or (b) of this section.

(e) It shall be further unlawful for any permittee under this article to administer massage on an outcall basis. Such person shall administer massage solely within an establishment licensed to carry on such business under this article. Any violation of these provisions shall be deemed grounds for revocation of the permit granted under this article. The restriction on outcall massage shall not apply to a permittee who performs outcall massage upon a customer or client who because of reasons of physical defects or incapacities or due to illness is physically unable to travel to the massage establishment. If any outcall massage is performed under this exception, a record of the date and hour of each treatment, and the name and address of the customer or client, and the name of the employee administering such treatment and the type of treatment administered, as well as the nature of the physical defect, incapacity or illness of the client or customer, shall be kept by the licensee or person or employee designated by the license. Such records shall be open to inspection by officials charged with the enforcement of public health laws. The information furnished or secured as a result of any such inspection shall be confidential. Any unauthorized disclosure or use of such information by an em-

ployee of the business or the city shall be unlawful.

(f) It shall be unlawful for any massage service to be carried on within any cubicle, room, booth, or any area within a massage establishment which is fitted with a door capable of being locked.

(Ord. No. 00-183, § 86-21, 12-20-2000)

### **Secs. 8-43 – 8-60. Reserved.**

## DIVISION 2. LICENSE AND PERMIT

### **Sec. 8-61. Required.**

(a) Business license required. No person shall engage in or carry out the business of massage unless he has a valid massage business license issued by the city pursuant to the provisions of this article for each and every separate office or place of business conducted by such person.

(b) Massagist permit required. No person shall practice massage as a massagist, employee or otherwise unless he has a valid and subsisting massagist permit issued to him by the city pursuant to the provisions of this article.

(c) Duty of owner or manager regarding employees. It shall be the responsibility of an owner, operator, manager or licensee under this article to insure that each person employed or engaged by him in the business as a massagist shall have a valid massagist permit pursuant to this article.

(Ord. No. 00-183, § 86-3, 12-20-2000)

### **Sec. 8-62. Application for massage establishment license.**

(a) Every applicant for a license to maintain, operate or conduct a massage establishment shall file an application under oath with the city clerk's office upon a form provided by the city and pay a nonrefundable application investigation fee. Such fee shall be set by city council resolution and shall be renewed annu-

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ally. The application shall contain the following information:

- (1) A definition of the service to be provided.
  - (2) The location, mailing address and all telephone numbers of the premises where the business is to be conducted.
  - (3) The name and residence address of each applicant.
    - 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 percent of the stock of the corporation, the address of the corporation itself, if different from the address of the massage establishment, and the name and address of a resident agent in the county.
    - b. If the applicant is a partnership, the names and residence addresses of each of its partners and the partnership itself, if different from the address of the massage establishment, and the name and address of a resident agent in the county.
  - (4) The two previous addresses immediately prior to the present address of the applicant.
  - (5) Proof that the applicant is at least 18 years of age.
  - (6) Individual or partnership applicant's height, weight, color of eyes and hair, and sex.
  - (7) Copy of identification such as a driver's license and a social security card.
  - (8) Portrait photograph.
    - a. One portrait photograph of the applicant at least two inches by two inches, and a complete set of the applicant's fingerprints, which shall be taken by the chief of police or his agent.
  - b. If the applicant is a corporation, one portrait photograph at least two inches by two inches of all officers and managing agents of the corporation, a complete set of the same officers' and agents' fingerprints, which shall be taken by the chief of police or his agent.
  - c. If the applicant is a partnership or a limited liability company, one front-face portrait photograph at least two inches by two inches in size of each partner or member, including a limited partner in the partnership, and a complete set of each partner's or member's or limited partner's fingerprints, which shall be taken by the chief of police or his agent.
- (9) Business, occupation, or employment of the applicant for the three years immediately preceding the date of application.
  - (10) The massage or similar business history of the applicant; and whether such person, in previously operating in this or another city or state, has had a business license revoked or suspended, the reason therefor, and the business activity to such action of suspension or revocation.
  - (11) All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, the nature of the crimes and the place convicted.
  - (12) The name and address of each massagist who is or will be employed in the establishment.
  - (13) The applicant must furnish a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage is taught;



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provided, however, that if the applicant will not himself engage in the practice of massage, 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 is taught.

- (14) 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 (a)(3) of this section wherein the business or profession of massage is carried on.
  - (15) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.
  - (16) 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 permit.
  - (17) 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.
  - (18) The names, current addresses and written statements of at least three 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.
- (b) All information required by this section shall be provided at the applicant's expense.

(c) Upon completion of the application form and the furnishing of all information required by this section, the city shall accept the application for the necessary investigations. The holder of a massage establishment license shall notify the city of each change in any of the data required to be furnished by this section within ten days after such change occurs.

(Ord. No. 00-183, § 86-4, 12-20-2000)

### **Sec. 8-63. Application for a massagist permit.**

(a) Every applicant for a permit as a massagist, masseur or masseuse shall file an application under oath with the city clerk's officer upon a form provided by the city and pay a non-refundable application investigation fee to be set by city council resolution.

- (1) The application shall contain the following information:
- (2) The business address and all telephone numbers where the massage is to be conducted.
- (3) The name and residence address of the applicant, and all names, nicknames and aliases by which the applicant has been known, including the two previous addresses immediately prior to the present address of the applicant.
- (4) Social security number, driver's license number, if any, and date of birth.
- (5) Applicant's weight, height, color of hair and eyes, and sex.
- (6) Written evidence that the applicant is at least 18 years of age.
- (7) A complete statement of all convictions of the applicant for any felony or misdemeanor or violation of a local ordinance, except misdemeanor traffic violations.
- (8) Fingerprints of the applicant taken by the police department.
- (9) Two front-face portrait photographs taken within 30 days of the date of ap-

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plication and at least two inches by two inches in size.

- (10) 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.
- (11) The message or similar business history and experience ten 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 a license or permit has had a license or permit denied, revoked, or suspended and the reasons therefor, and the business activities or occupations subsequent to such action of denial, suspension or revocation.
- (12) The names, current addresses and written statements of at least five 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.
- (13) A medical certificate signed by a physician, licensed to practice in the state, within ten days of the date of application. The certificate shall state that the applicant is free of communicable diseases.
- (14) 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.
- (1) 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 appli-

cation and the qualifications of the applicant for the permit.

- (2) Written declaration by the applicant, under penalty of perjury, that the information contained in the application is true and correct, such declaration being duly dated and signed in the city.

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

(Ord. No. 00-183, § 86-5, 12-20-2000)

**Sec. 8-64. Investigation of applicant and inspection of premises.**

(a) Any applicant for a license or permit pursuant to this article shall present to the city clerk's office the application containing the information described in section 8-63. The application shall be referred to the chief of police, who shall have 30 days in which to investigate the application and the background of the applicant. Based on such investigation, the chief of police or his representative shall render a recommendation as to the approval or denial of the permit to the city manager.

(b) The chief of police shall recommend denial or approval of an application for license or permit. In making his determination under this section, the chief of police shall consider:

- (1) *Penal history.* All of the applicant's convictions, the reasons therefor, and the demeanor of the applicant subsequent to his release.
- (2) *License and permit history.* The license and permit history of the applicant; whether such person in previously operating in this city or state, or in another state, under a license or permit has had such license or permit revoked or suspended; the reasons therefor; and the demeanor of the applicant subsequent to such action.

(c) The building inspector, electrical inspector, plumbing inspector, police department, fire department, and county health inspector shall inspect the premises proposed to be devoted to

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the massage parlor or similar business, and shall make within 30 days inspection recommendations to the city manager concerning compliance with the requirements of this article and all other applicable city ordinances and regulations.

(Ord. No. 00-183, § 86-6, 12-20-2000)

### **Sec. 8-65. Grounds for denial.**

The city clerk shall issue a license for a massage establishment or a permit for a massagist, masseur or masseuse if all requirements for a massage establishment or massagist permit described in this article are met, unless he finds:

- (0) The correct permit or license fee has not been tendered to the city and, in the case of a check or bank draft, honored with payment upon presentation.
- (0) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the city's building, zoning and health regulations.
- (0) The applicant, if an individual; or any of the stockholders holding more than ten percent of the stock of the corporation; 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 the holder of any lien, of any nature, upon the business; and the manager or other person principally in charge of the operation of the business, have been convicted of any of the following offenses within or without the state:
  - . An offense involving the use of force and violence upon the person of another that amounts to a felony.
  - . An offense involving sexual misconduct.
  - . An offense involving narcotics, dangerous drugs or dangerous weapons that amounts to a felony.

The city clerk may issue a license or permit to any person convicted of any crimes described in subsection (3)a, b, or c of this section if it finds that such conviction occurred at least seven 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 crimes mentioned in this section.

- (0) The applicant has knowingly made any false or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith.
- (0) The applicant has had a massage business, massagist, or other similar permit or license denied, revoked, or suspended by another city or other local agency, or any other similar permit or license denied, revoked, or suspended by a city or any other state or local agency within five years prior to the date of the application.
- (0) The applicant, if an individual; or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, is not over the age of 18 years.

(Ord. No. 00-183, § 86-7, 12-20-2000)

### **Sec. 8-66. Issuance; term; appeals.**

( ) The city clerk shall act to approve or deny an application for a license or permit under this article within a reasonable period of time and in no event shall he act to approve or deny the license or permit later than 90 days from the date that the application was accepted by the city clerk's office.

( ) Every license or permit issued pursuant to this article shall be valid for one year and must be renewed as required by this article.

( ) An applicant denied a license may appeal to the city council in writing, stating the reasons why the license should be granted. The city council may grant, deny or suspend a license or permit after an appeal hearing.  
(Ord. No. 00-183, § 86-8, 12-20-2000)

**Sec. 8-67. Posting.**

( ) Every massagist shall post the permit required by this article in his work area.

( ) Every individual, corporation, partnership, association, or limited liability company licensed under this article shall display such license in a prominent area.

(Ord. No. 00-183, § 86-9, 12-20-2000)

**Sec. 8-68. Suspension or revocation of massage establishment license.**

Any license issued for a massage establishment by the city may be revoked or suspended after notice and a hearing, for good cause, or in any case where any of the provisions of this article are violated, or where any employee of the licensee, including a massagist, is engaged in any conduct which violates any state or local laws or ordinances at the licensee's place of business. Such permit may also be revoked or suspended, after notice and hearing, upon the recommendation of the county health department that such business is being managed, conducted, or maintained without regard to proper sanitation and hygiene.

(Ord. No. 00-183, § 86-11, 12-20-2000)

**Sec. 8-69. Suspension or revocation of massagist permit.**

A massagist, masseur or masseuse permit issued by the city may be revoked or suspended, after notice and hearing, where it appears that the massagist, masseur or masseuse has been convicted of any offense which would be cause for denial of a permit upon original application, has made a false statement on an application for a permit, or has committed an act in violation of this article.

(Ord. No. 00-183, § 86-12, 12-20-2000)

**Sec. 8-70. Renewal of massage establishment license.**

( ) Application to renew a license to operate massage establishment or similar business or a massagist permit shall be filed at least 15 days prior to the date of expiration. Such renewal shall be annual and shall be accompanied by an annual fee.

( ) The applicant shall present the following information to the city clerk's office:

(0) A sworn affidavit by the applicant stating that the matters constrained in the original application have not changed or, if they have changed, specifically stating the changes which have occurred.

(0) A signed statement from a medical or osteopathic doctor stating that the applicant for a massagist license has been examined within the prior 90 days and found to be free from any contagious or communicable disease which is likely to be communicated during the administering of a massage.

(b) The application shall be referred to the chief of police, who shall investigate the criminal history of the applicant and any employees holding permits as massagists since the grant of the original license.

(Ord. No. 00-183, § 86-13, 12-20-2000)

**Sec. 8-71. Sale, transfer or change of location of business.**

Upon sale, transfer or relocation of a massage establishment, the license therefor shall be null and void unless approved as provided by this article. It shall be the duty of all owners or licensees having knowledge of the sale, transfer or relocation of a massage establishment to immediately report such sale, transfer or relocation to the city clerk's office. The failure to do so shall result in an immediate suspension of all business.

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(Ord. No. 00-183, § 86-22, 12-20-2000)

### **Sec. 8-72. Operation under name or in place of business not specified in license.**

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

(Ord. No. 00-183, § 86-23, 12-20-2000)

### **Sec. 8-73. Transfer.**

No license or permit shall be transferable except with the consent of the city manager and being ratified by the city council. An application for such transfer shall be in writing and shall be accompanied by fees provided by city council resolution. The written application for such transaction shall contain the same information as requested in this division for the initial application for the license or permit.

(Ord. No. 00-183, § 86-24, 12-20-2000)

### **Secs. 8-74 – 8-100. Reserved.**

## **ARTICLE III. USED MOTOR VEHICLE DEALERSHIPS\***

### **DIVISION 1. GENERALLY**

#### **Sec. 8-101. Definitions.**

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

*Commercial district, B-3*, means a corresponding district established by the city zoning code.

*Established place of business* means premises actually and continuously occupied by a

used motor vehicle dealer in the transaction of his business.

*Junker* means any motor vehicle which has been disassembled, dismantled, or damaged to the extent that it cannot operate under its own power and which requires major repairs or the installation of major parts to render it operable.

*Junkyard* means premises where junkers are stored or displayed or parts thereof disassembled, dismantled, or removed.

*Used motor vehicle* means every self-propelled vehicle which has been sold, bargained, exchanged, given away or title transferred from the person who first obtained an official certificate of title.

*Used motor vehicle dealer* means every person engaged in the business of selling, or disposing of, used motor vehicles. Such term shall include persons who sell, offer for sale, or dispose of used vehicles, title to which is in another person.

**Cross reference** – Definitions generally, § 1-2.

#### **Sec. 8-102. Records.**

Every used motor vehicle dealer shall maintain the records required by section 251 of Public Act No. 300 of 1945 (MCL 257.251), which records shall be open to inspection by any police officer of the city during reasonable business hours.

(Ord. No. 03-203, § 87-7, 2-10-2003)

#### **Sec. 8-103. Maintenance of place of business.**

( ) All sites for which a license shall have been granted under the provisions of this article shall be maintained in a neat, clean and orderly manner.

( ) No motor vehicle, trailer, semitrailer, trailer coach, or any other type of vehicle shall be parked in such a manner, or in such a place, as to prevent free and unobstructed vision to motorists driving from adjacent streets, alleys or private driveways onto intersecting streets.

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\***Cross reference** – Traffic and vehicles, ch. 36.

(c) No used motor vehicles may be stored or displayed for sale on the premises unless located within the area designated on the application as the display for the used motor vehicles.

(d) The motor vehicles shall be displayed in rows so that motor vehicles may be easily moved into and out of the display area.  
(Ord. No. 03-203, § 87-8, 2-10-2003)

**Sec. 8-104. Display of unsafe vehicles.**

It shall be a violation of this article to display or expose for sale any used motor vehicle which is in such state of disrepair, in such mechanical condition, or without required equipment, as to be unsafe for operation on the public highways, or which would constitute a violation of state law if the vehicle were operated upon a public highway. The presence of such a motor vehicle upon the premises shall be deemed prima facie display or exposure for the purpose of sale.  
(Ord. No. 03-203, § 87-9, 2-10-2003)

**Sec. 8-105. Repair and servicing of vehicles.**

The repair or servicing of motor vehicles, except as to minor repairs strictly incidental to the operation of a used motor vehicle business, shall be prohibited.  
(Ord. No. 03-203, § 87-10, 2-10-2003)

**Sec. 8-106. Vehicle registration and title transfer.**

When a used motor vehicle dealer holds a used motor vehicle for resale and operates the vehicle only for purposes incident to resale and displays thereon the registration plates issued for such vehicle or when a used motor vehicle dealer does not drive such vehicle or permit it to be driven upon the highways, except for demonstration purposes incident to a resale, the dealer shall not be required to obtain transfer of registration of such vehicle or forward certificate to the appropriate state agency, but such dealer shall retain and have in his immediate possession at all times such assigned certificate of title

and upon transferring his title or interest to another person shall execute and acknowledge an assignment and warranty of title upon the certificate of title and deliver the same to the person to whom transfer is made.  
(Ord. No. 03-203, § 87-11, 2-10-2003)

**Sec. 8-107. Penalties.**

A violation of any provision of this article shall be a municipal civil infraction.  
(Ord. No. 03-207, § 87-13, 6-9-2003)

**Secs. 8-108 – 8-130. Reserved.**

**DIVISION 2. LICENSE**

**Sec. 8-131. Required.**

No person shall engage in or carry out the business of used motor vehicle dealer unless that person has a valid used motor vehicle dealer license issued by the city pursuant to the provisions of this article for each and every separate office or place of business conducted by such person.  
(Ord. No. 03-203, § 87-3, 2-10-2003)

**Sec. 8-132. Application.**

Every applicant for a license to maintain or operate a used motor vehicle dealership shall file an application under oath with the city clerk's office upon a form provided by the city and pay a nonrefundable application investigation fee. Such fee shall be set by city council resolution and shall be renewed annually. The application shall contain the following information:

- (1) The location, mailing address and all telephone numbers where the business is to be conducted.
- (2) The name and residence address of each applicant.
  - a. If the applicant is a corporation, the names and residence addresses of each of the officers and directors of

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said corporation and of each stockholder owning more than ten percent of the stock of the corporation, the address of the corporation itself, if different from the address of the establishment, and the name and address of a resident agent in the county.

- b. If the applicant is a partnership or limited liability company, the names and residence addresses of each of the partners or members and the organization itself, if different from the address of the dealership, and the name and address of a resident agent in the county.
- (3) The two previous addresses, if any, immediately prior to the present address of the applicant.
- (4) Proof that the applicant is at least 18 years of age.
- (5) All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted.
- (6) The site upon which such business is to be conducted, and whether it is to be an established place of business.
- (7) The length of time such business is to be conducted, and whether it is to be an established place of business.
- (8) The date and number of licenses from the secretary of state, authorizing the conduct of a business in used motor vehicles, and sales tax license number. No license shall be issued to any person not currently licensed by the secretary of state under Public Act No. 300 of 1949 (MCL 257.1 et seq.) or who does not possess a sales tax license issued by the state department of revenue.
- (9) The application shall state whether or not the applicant, in addition to the conducting of a used motor vehicle business, proposes to engage in the conducting of

any other type of business on the premises for which a license is sought; and it shall particularly state whether or not the applicant proposes to operate a public garage, and whether he proposes to store or display junkers or operate a junkyard.

- (10) A description of the site which meets the requirements of this article and the city zoning code, showing the location on the premises of the office, the location of the cars to be displayed for sale, and customer parking.

(Ord. No. 03-203, § 87-4, 2-10-2003; ORd. No. 03-207, § 87-4, 6-9-2003)

### **Sec. 8-133. Investigation; issuance.**

The city clerk shall submit the application for a license under this article to the zoning administrator, chief of police, and city manager. The zoning administrator shall determine if the premises is located in the proper zone and meets the requirements of the zoning code. The chief of police shall determine if the license from the state is current and in force and shall determine if the criminal history is accurate. The city manager, or his designee, shall determine if the site meets the requirements of this article. If the city officials, within 30 days of application, indicate that the application meets the requirements of this article and the zoning code, the license shall be issued.

(Ord. No. 03-203, § 87-5, 2-10-2003)

### **Sec. 8-134. Established place of business and paved display area required.**

(a) No license shall be granted to any person who does not have at the time of application an established place of business, or unless he furnishes satisfactory evidence to the city clerk that, if a license is issued, such established place of business is immediately procurable.

(b) The display area for its automobiles shall be on a paved surface (asphalt or concrete), separate from the area reserved for parking for

its customers. The asphalt shall have a minimum depth of two inches.

(Ord. No. 03-203, § 87-6, 2-10-2003)

**Sec. 8-135. Revocation.**

Any license issued under the terms of this article may be suspended or revoked for any of the following reasons after due notice and a hearing from the city council:

- (0) Revocation by the secretary of state of the dealer's license issued by the secretary of state.
- (0) Where the licensee is a corporation or partnership, any stockholder, officer, director or partner of the licensee has been guilty of any act or omission which would be cause for suspending or revoking a license issued to such stockholder, officer, director or partner as an individual.
- (0) Two or more violations of the provisions of this article in any one-year period.
- (0) The licensee, or principal stockholder, partner or member, is convicted of a felony.

(Ord. No. 03-203, § 87-12, 2-10-2003)

**Secs. 8-136 – 8-196. Reserved.**