

CHAPTER 08 BUSINESS REGULATIONS

ARTICLE 8-8. MASSAGE ESTABLISHMENTS

Sec. 8-8-1. Definitions in General

The definitions in A.R.S. tit. 9 (A.R.S. § 9-101 et seq.) shall be applicable to this Article unless a term is specifically defined in this Article, or unless the context requires otherwise.

Sec. 8-8-2. Definitions Pertaining to this Article

For the purposes of interpretation of this Article, the following words and phrases shall mean:

(a) *Applicant* – A Person who applies for a Manager license or a Massage Establishment license.

(b) *Application* - An application for a Massage Establishment License or Manager's License. The Application shall contain the full name of the Applicant, the Applicant's residential and business addresses and telephone numbers, the name of the business for which the License is sought and any additional information the City deems necessary.

(c) *Client* – An individual who enters into an agreement for Massage Therapy for a fee, income or compensation of any kind within the City.

(d) *Control* – The power to direct or cause the direction of the management and policies of an Applicant, Licensee or Controlling Person, whether through the ownership of voting securities or a partnership interest, or by agreement or otherwise. Control is presumed to exist if a Person has the direct or indirect ownership of or power to vote ten percent (10%) or more of the outstanding voting securities of the Applicant, Licensee or Controlling Person or to control in any manner the election of one or more of the directors of the Applicant, Licensee or Controlling Person. For the purposes of determining the percentage of voting securities owned, controlled or held by a Person, the voting securities of any other Person directly or indirectly controlling, controlled by or under common control with the other Person, or by an officer, partner, Employee or agent of the Person or by a spouse, parent or child of the Person shall be included. Control is also presumed to exist if a creditor of the Applicant, Licensee or Controlling Person holds a beneficial interest in fifty percent (50%) or more of the liabilities of the Licensee or Controlling Person.

(e) *Controlling Person* – A Person directly or indirectly possessing Control of an Applicant or Licensee.

(f) *Designated Agent* – The individual designated by the Applicant who will be the responsible party to receive City notices pursuant to this Article.

(g) *Employ* – To hire, or to engage or authorize the services of, without regard to compensation, any individual, on a full-time, part-time, or contract basis, whether or not the person employed, hired or engaged is denominated an Employee or independent contractor.

(h) *Employee* – Any Person who performs any service at a massage facility on a full-time, part-time or contract basis, whether or not the Person is designated an Employee or

independent contractor. Employee does not include a Person exclusively at the massage facility for repair or maintenance of the massage facility or for the delivery of goods to the Licensee.

(i) *Knowingly* – With respect to conduct or a circumstance described herein, that a Person is aware or believes that his or her conduct is of that nature or that the circumstance exists. It does not require any knowledge of the unlawfulness of the act or omission.

(j) *License* - Authorization issued by the City or other appropriate governmental authority to any Person to operate a Massage Establishment, to serve as the Manager thereof or to provide Massage Therapy or other services therein.

(k) *Licensee* – The Person who receives a Massage Establishment license or Manager License, and in whose name a License has been issued by the Licensing Office pursuant to this Article.

(l) *Licensing Office* - The Finance Department for the City of Maricopa or other department as designated by the City Manager.

(m) *Manager* – An individual authorized by the Massage Establishment Licensee to exercise overall operational control of the business, to supervise Employees, and to fulfill all of the duties and functions required of a Manager by this Article.

(n) *Massage Establishment* – Any place of business or establishment wherein any of the subjects or methods of treatment listed in paragraphs (o) or (q) are administered, practiced or used, or from which is dispatched a person for the purpose of administering, practicing or using any of the subjects or methods of treatment listed in paragraphs (o) or (q).

(o) *Massage or Touching Techniques* – Any of the following named subjects and methods of treatment intended for use upon or in connection with the human body: oil rubs; alcohol rubs; salt glows; hot or cold packs; tub, shower, table or cabinet baths; herbal wraps; and touching procedures upon the external parts of the body by use of the hands, forearms, elbows, knees or feet, or by any electrical, mechanical or vibratory apparatus, including stroking, friction, kneading, rolling, vibrating, cupping, petrissage, rubbing, effleurage and tapotement.

(p) *Massage Therapist* – A Person who is licensed pursuant to Chapter 42 of Title 32 of the Arizona Revised Statutes to engage in the practice of Massage Therapy.

(q) *Massage Therapy* – Includes any of the following that are undertaken to increase wellness, relaxation, stress reduction, pain relief and postural improvement, or provide general or specific therapeutic benefits, including, but not limited to stroking, friction, kneading, rolling, vibrating, cupping, petrissage, rubbing, effleurage, tapotement, and any other non-incidentally touching such as:

(1) The manual application of compression, stretch, vibration or mobilization of the organs and tissues beneath the dermis, including the components of the musculoskeletal system, peripheral vessels of the circulatory system and fascia, when applied primarily to parts of the body other than the hands, feet and head.

(2) The manual application of compression, stretch, vibration or mobilization using the forearms, elbows, knees or feet or handheld mechanical, electrical, water or vibratory devices.

(3) Any combination of range of motion, directed, assisted or passive movements of the joints.

(4) Hydrotherapy, including, but not limited to tub, shower or cabinet baths, and the application of water, hot and cold packs or wraps.

(5) Any other therapeutic application of wraps, oils, alcohol rubs, skin brushing, salt glows and similar applications of products to the skin.

The following techniques and procedures are beyond the scope of this license: diagnosis, prescription of medicines or drugs, administering of injections, colon irrigation, performing minor surgery, and administering cranial, costal, or spinal adjustments as taught in medical, osteopathic, or chiropractic colleges. (Costal or spinal massage is permissible with a Massage Therapy license.)

(r) *Minor Traffic Violation* - A conviction or finding of responsibility not to include the following, which shall be considered serious traffic violations: excessive speeding involving a single offense for a speed of fifteen miles per hour or more above the posted speed limit; reckless driving as provided by A.R.S. §§28-693; aggressive driving as provided by Section A.R.S. §§28-695; racing as defined in A.R.S. §§28-708; improper or erratic traffic lane changes as provided by A.R.S. §§28-729; following the vehicle ahead too closely as provided by A.R.S. §§28-730; a violation that is connected with a fatal traffic accident; driving a motor vehicle if the person has not been issued a valid driver license; driving a motor vehicle without a driver license in the person's possession; driving a motor vehicle without having a valid endorsement for the type of motor vehicle or motor vehicle combination being operated.

(s) *Person* – Any individual, partnership, limited partnership, firm, corporation, association, or any other group acting as a unit.

(t) *Private Anatomical Areas* – The genitals, perineum, and anal region of any person and the area of the breast that includes the areola and the nipple of any female person.

(u) *Temporary Manager* – An individual authorized by the Licensing Office to exercise overall operational control of the business, to supervise Employees, and to fulfill all of the duties and functions required of a Manager of this Article on a temporary basis.

Sec. 8-8-3. Applicability; Provisions Cumulative

(a) The provisions of this Article shall apply to all Massage Establishments and Persons as defined herein.

(b) The provisions of this Article shall be in addition to any other regulations, privilege or license taxes or permit requirements required by the City, the state or other applicable agency and cumulative to any other applicable regulations, procedures or penalties.

Sec. 8-8-4. License Application; Fee; Timeline

(a) Any Person desiring to obtain a Massage Establishment License or Massage Manager License must apply to the Licensing Office. Each Application must be accompanied by all required Application fees.

(b) Upon approval, and prior to issuance of the License, the Applicant must pay all required License fees.

(c) An Application will be granted or denied within the schedule of administrative and substantive review timeframes, as established by the Licensing Office.

(d) Fees are not prorated, transferable or refundable unless otherwise provided by law.

Sec. 8-8-5. Massage Therapists; Massage Managers; Massage Establishment License Required

(a) It is unlawful for any Person to practice or in any manner to claim to practice Massage Therapy without first obtaining and maintaining in effect a current, unrevoked and unsuspended Massage Therapist License as required by Arizona Revised Statutes and as required by this Article.

(b) It is unlawful for any Person to conduct or operate as a Massage Establishment in the City without first obtaining and maintaining in effect a current, unrevoked and unsuspended Massage Establishment License as required by this Article.

(c) It is unlawful for any Employee of a Massage Establishment to act as a Massage Manager without first obtaining and maintaining in effect a current, unrevoked and unsuspended Massage Manager License as required by this Article.

(d) It is unlawful for any Person licensed as provided in this Article to operate under any name or conduct business under any designation not specified in the License.

(e) It is unlawful for any Person licensed as provided in this Article to conduct business at any location not specified on such License.

(f) The License required by this Article is in addition to any other licenses or permits required by any governmental authority necessary to lawfully conduct business.

(g) The provisions of Subsection b shall not apply to a place of business or establishment wherein all persons offering Massage or Touching Techniques or Massage Therapy are licensed as a barber, aesthetician, cosmetologist, or nail technician pursuant to Arizona Revised Statutes, and who practice within the scope of that Person's License.

Sec. 8-8-6. Massage Establishment License Application; Contents

(a) Each Application for a Massage Establishment License shall include a description of the proposed business activity. Such description shall include, but not be limited to, the following information. Paragraphs (1) through (9) below are required to be completed about the Applicant, the business owner, the Licensee if not the Applicant or the business owner, the agent responsible for managing the premises on a day to day basis (hereinafter "managing agent") and any Controlling Person as defined herein:

- (1) Full legal name and any name by which the Person is or has been known;
- (2) Current home address and telephone number and addresses over the past ten (10) years;
- (3) Driver's license number or other government-issued, federally recognized identification;
- (4) Birth date, height, weight, hair and eye color;
- (5) Business occupation and Employment history for ten (10) years;
- (6) License history, including issuance, revocation, suspension or termination of any current or past Massage Establishment Licenses;

- (7) The prospective Licensee shall submit to a fingerprinting process as directed by the Licensing Office for the purpose of obtaining a state or federal, or both, criminal records check pursuant to A.R.S. § 41-1750 and Public Law (PL) 92-544. The Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation. Fingerprints must be submitted on fingerprint cards provided by the Licensing Office or designee.
- (8) Listing of any prior felony or misdemeanor convictions except Minor Traffic Violations;
- (9) Documentation of age over eighteen (18) years;
- (10) Designation of the managing agent who will be managing or operating the Massage Establishment at the indicated location and proof of the managing agent's authorization to act on behalf of the prospective Licensee;
- (11) Name, address and telephone number of any other local agent authorized to conduct daily business and proof of authority to act on behalf of the prospective Licensee;
- (12) Name, address and telephone number of statutory agent in Arizona if a corporation or an out-of-state Applicant, Licensee or owner;
- (13) Except for corporations listed on the major stock exchanges, the names and addresses of all Persons financially interested in the business. If a Person financially interested in the business of the prospective Licensee is a corporation, the names and addresses of all Persons financially interested in that corporation shall be provided;
- (14) The names and addresses of any Controlling Persons as defined herein. If the Controlling Person is a corporation, the names and addresses of all Persons having Control of the controlling corporation shall be provided;
- (15) Evidence of current, valid conditional use permit or any other applicable zoning approval for the proposed activity issued by the City;
- (16) The Articles of Incorporation, Articles of Organization, or Certificate of Limited Partnership, together with any amendments thereto, for the Applicant, as applicable;
- (17) A list of services to be offered by the Massage Establishment;
- (18) Business hours. The business hours submitted pursuant to this Article shall not be between 10:00 P.M. and 7:00 A.M.
- (19) A clearly legible sketch or diagram showing the configuration of the overall business premises that includes:
- (i) The location of all interior doors, walls, curtains and room dividers.
 - (ii) A description of the use of each interior space or room, including a designation, by type of use, of each room or space available for Massage or Touching Techniques or Massage Therapy by the therapist.
 - (iii) A designation of each room or space that is being, or is intended to be, leased, subleased, or licensed for use by any Person other than the Applicant and a description of its intended and actual use.

- (iv) A designation of each room or space that is being, or is intended to be, leased, subleased, or licensed for use by any Person other than the Applicant for purposes of offering Massage or Touching Techniques or Massage Therapy and a description of its intended and actual use.

The sketch or diagram need not be professionally prepared but shall be drawn on one page measuring 8 ½ inches by 11 inches with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. For purposes of this paragraph a “wall” shall include any interior barrier, including transparent glass that extends more than fifty-four inches from the level of the finished floor.

(20) It is unlawful to cause obstruction of the passage of light through any windows of a Massage Establishment premise by means including, but not limited to, affixing plywood, paper, or taping other opaque materials over the windows.

(21) It is unlawful for any Massage Establishment Licensee, Controlling Person, licensed Massage Manager, or Temporary Manager to allow any Person under the influence of intoxicating liquor or illicit or unprescribed drugs to be present in a Massage Establishment. For the purpose of this Article, a citation may be issued to one or all of the parties present in the Massage Establishment if it is obvious to the citing officer that any Person within the Massage Establishment shows signs of impairment.

(22) Such other information as may be requested by the Licensing Office to determine the truth of the information required to be set forth above.

(b) Any change in ownership of the business or in the information required to be provided in paragraphs (1), (10), (11), (12), or (13) above shall be reported to the Licensing Office within ten (10) calendar days after the change. Such changes shall be subject to investigation and approval by the City as provided in Subsection (c) set forth below and, if disapproved, the disapproval shall be grounds for termination of the license as provided in Section 8-8-17 of this Code. The requirement for reporting changes as required herein is effective at all times during the City’s consideration of the application and at all times when a license issued hereunder is in effect. All information set forth above in paragraphs (1) through (20) must be updated at the time of the renewal of the License.

(c) The Police Department shall conduct an investigation of the application and background of the Applicant and proposed Licensee. Based on such investigation, the Police Department shall recommend to the Licensing Office the approval or denial of the License. In addition, the development services department and fire department, and any other affected department, may inspect any premises proposed as the site of the establishment and may make separate recommendations to the Licensing Office concerning compliance with the provisions of this Article and any other applicable codes.

(d) Implementing changes in the services offered by a Massage Establishment, changes in the use or configuration of the premises of a Massage Establishment, additions or substitutions of a Manager, Temporary Manager, or Designated Agent, and any change in the business hours without written approval or written acknowledgement from the Licensing Office is unlawful.

Sec. 8-8-7. Massage Manager License Application; Contents

An Applicant for a Manager License shall submit the following:

- (a) Full legal name and any name by which the person is or has been known;

- (b) Current home address and telephone number and addresses over the past five (5) years;
- (c) Driver's license number or other government-issued, federally recognized identification;
- (d) Birth date, height, weight, hair and eye color;
- (e) Business occupation and Employment history for five (5) years;
- (f) License history, including issuance, revocation, suspension or termination of any current or past Massage Manager licenses;
- (g) Listing of any prior felony or misdemeanor convictions except Minor Traffic Violations;
- (h) Documentation of age over eighteen (18) years;
- (i) Such other information as may be requested by the Licensing Office.

Sec. 8-8-8. Massage Establishment License; Special Requirements

- (a) No Massage Establishment License shall be issued: if the Applicant or a Controlling Person has been convicted within the last ten (10) years of any felony or misdemeanor offense having a reasonable relationship to the functions of a Massage Establishment Licensee, if the application was falsified, if the Applicant or a Controlling Person has an outstanding warrant for his or her arrest, or if the Applicant or a Controlling Person is not in compliance with any provision of this Article.
- (b) No Massage Establishment License shall be issued if the Applicant or Controlling Person has been convicted within the last ten (10) years of any offense proscribed by Chapters 14, 32, and 35.1 of the Arizona Criminal Code (Title 13, Arizona Revised Statutes), or by the City of Maricopa City Code , or any offense committed outside this state or City that if committed in this state or City would constitute a violation of any offense proscribed by Chapters 14, 32, and 35.1 of the Arizona Criminal Code or by the City of Maricopa City Code.
- (c) No Massage Establishment License shall be issued if the Applicant or Controlling Person(s) has any felony or misdemeanor charge(s) pending in a court of competent jurisdiction having reasonable relationship to the functions of a Massage Establishment. The License will not be processed until such charges are adjudicated.
- (d) An Applicant for a Massage Establishment License, a Controlling Person for a Licensee, a Manager, or a Licensee shall permit representatives of the Police Department, and any other federal, state, county, or City agency in the performance of any function connected with the enforcement of any code, statute or regulation relating to human health, safety or welfare of structural safety, normally and regularly conducted by such agency, to inspect the premises of a Massage Establishment for the purpose of ensuring compliance with the law, at any time it is lawfully occupied or open for business. Inspection of rooms occupied by a patron shall not commence until the patron has been given reasonable opportunity to dress, gather his or her personal effect and exit the room.
- (e) A Massage Establishment Licensee shall comply with the following requirements at all times:
 - (1) A readable sign shall be permanently affixed at the main entrance to the business identifying the business as a Massage Establishment.

- (2) Lighting of ten foot candles, measured at a height of 30 inches at the approximate center of the room or enclosure, shall be provided in each room or enclosure where services are performed on patrons.
 - (3) Ventilation shall be provided in accordance with Chapter 7 of the Maricopa City Code.
 - (4) Adequate equipment shall be provided for disinfecting and sterilizing instruments used in administering or practicing any of the subjects or methods of treatment listed in Section 8-8-2 (o) or (q).
 - (5) Hot and cold running water, tempered by means of a mixing valve faucet, shall be provided at all times.
 - (6) Closed cabinets shall be provided, and used, for the storage of clean linens.
 - (7) Notwithstanding any other requirement of this Article, a minimum of one shower or tub shall be provided for any establishment offering any hydrotherapy services including whirlpool baths, saunas, steam baths, and herbal wraps.
 - (8) Any pool or spa shall be issued a permit and inspected as required by Chapter 7 Building Regulation of the Maricopa City Code, as applicable.
 - (9) All walls, ceilings, floors, showers, bathtubs, steam rooms, and all other physical facilities within the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms or cabinets, toilets and wash basins shall be thoroughly cleaned each day business is in operation. Shower compartments and bathtubs, where provided, shall be thoroughly cleaned after each use.
 - (10) Clean and sanitary sheets and towels shall be provided for each patron of the establishment. The head rest of each table shall be provided with a clean and sanitary covering for each patron.
 - (11) All wash basins within an establishment shall: have hot and cold running water, tempered by means of a mixing valve faucet; provide sanitary towels placed in permanently installed dispensers or upon a permanently attached roll dispenser; and provide soap in a soap dispenser that is placed on or near the wash basin. A hand wash basin shall be provided in each treatment room providing hydrotherapy services, including whirlpool baths, saunas, steam baths and herbal wraps.
 - (12) The Massage Establishment must have at least one (1) exterior window facing the front of the business. Window must measure at least 4 x 4.
- (f) It is unlawful for any Person to Knowingly Employ any other Person to offer Massage Therapy who does not hold a current, unrevoked and unsuspended Massage Therapy license issued by the State of Arizona.
- (g) It is unlawful to Employ a Massage Therapist whose true name and state-issued Massage Therapist license number has not been previously provided to the Licensing Office on the form proscribed by the Licensing Office for that purpose.
- (h) The name of any Person provided to the Licensing Office pursuant to Subsection f whose Employment at the Massage Establishment has terminated shall be reported to the Licensing Office, on the form proscribed by the Licensing Office for that purpose, within ten (10) calendar days after termination.

(i) A Massage Establishment Licensee shall file with the Licensing Office, on the form provided by the Licensing Office for that purpose, the name and license number of each Person authorized to fulfill the functions of a Manager at the Massage Establishment. It shall be the responsibility of the Massage Establishment Licensee to have adequate Manager coverage on site during all times the establishment is open for business. During any period of time that a Massage Establishment does not have a properly licensed Manager recorded with the Licensing Office pursuant to this Subsection, the Massage Establishment Licensee, Controlling Person(s), or up to two (2) licensed therapists may be authorized to serve as a Temporary Manager provided they are in compliance with the requirements listed in Section 8-8-9. The establishment Licensee must request the temporary authorization on the form provided by the Licensing Office.

Once the establishment Licensee receives written approval from the Licensing Office, the Person(s) approved shall become Temporary Manager(s) at the specified location for a period not to exceed sixty (60) calendar days from the date on the approval letter. A Massage Establishment Licensee shall not be granted more than one approval in a calendar year unless the Licensing Office grants up to one (1) additional approval for good cause at the sole discretion of the Finance Director or designee.

The establishment Licensee shall ensure the new Manager candidate(s) applies for a Manager license within fourteen (14) calendar days from the date of the approval letter sent by the Licensing Office and that the Licensing Office has received the completed application(s) within the fourteen (14) calendar day requirement. If the Licensing Office has not received the Manager application(s) within the time specified above, the approval for the Temporary Manager(s) shall be automatically rescinded and the establishment may not operate until a licensed Manager is approved by the Licensing Office.

(j) It is unlawful for any Person to Knowingly Employ at a Massage Establishment a Manager or Temporary Manager who has been convicted within the previous ten (10) years of any of the offenses listed in Section 8-8-9.

(k) It is unlawful for any Person to offer Massage or Touching Techniques or Massage Therapy in any room or space of the business that has not been specifically identified as a room or space available for those services on the sketch or diagram required to be submitted to the Licensing Office pursuant to Section 8-8-6.

(l) It is unlawful for any Person to offer Massage or Touching Techniques or Massage Therapy in a room or space designated as leased, subleased or licensed for use by any other Person on the sketch or diagram required to be submitted to the Licensing Office pursuant to Section 8-8-6.

(m) A Massage Establishment Applicant shall be in compliance with the City of Maricopa Zoning Code on the date of application.

(n) A Massage Establishment Applicant or Licensee shall comply at all times with the City of Maricopa Zoning Code.

(o) A Massage Establishment Applicant shall be in compliance with Chapter 7 and Section 3-120 of the Maricopa City Code on the date of application.

(p) A Massage Establishment Applicant or Licensee shall comply at all times with Chapter 7 and Section 3-120 of the Maricopa City Code.

(q) It is unlawful for any Massage Establishment to remain open for business, to provide services, to dispatch Massage Therapists, or to permit Massage Therapists to work off the

premises on behalf of that Massage Establishment at any time between the hours of 10:00 P.M. and 6:00 A.M.

(r) It is unlawful for a Massage Establishment to be open for business during hours that have not been provided and approved by the Licensing Office as required by this Article.

(s) It is unlawful for any Massage Establishment to be open for business without a licensed Massage Manager or Temporary Manager in compliance with Subsection (i) on duty. It is unlawful for any Massage Establishment Employee to be present inside a Massage Establishment without a licensed Massage Manager or Temporary Manager present and on duty at the Massage Establishment. If a Massage Establishment Employee finds himself or herself inside a Massage Establishment without a licensed Massage Manager or Temporary Manager present and on duty, he or she must leave the premises immediately until a licensed Massage Manager or Temporary Manager is present and on duty.

(t) Notwithstanding any other provision of this Article, the Licensing Office may delay the granting or denial of a Massage Establishment License, upon the submission of a complete application, for a period of up to ninety (90) calendar days if there exists, or did exist within the sixty (60) calendar day period prior to the date the Application was first submitted, an active Massage Establishment License at the location for which the Application was submitted and there also exists a Police Department report documenting a violation of this Article at that establishment or a state prosecution of that existing establishment relating to compliance with any of the provisions of this Article. For purposes of this Section, an active Massage Establishment License includes a License that has been suspended or revoked, provided that a revoked License is no longer active after passage of the period of time for appeal with no appeal taken, or after the City Council has ruled in the event an appeal is taken and the decision is in the City's favor. Notwithstanding any other provision of this Subsection, any License subject to a judicial stay or injunction is an active License.

(u) The Applicant for any Massage Establishment License for a location at which a Massage Establishment License was revoked or suspended within the previous six (6) months shall provide to the Licensing Office a sworn statement, in a form proscribed by the Licensing Office, verifying that no Person qualified to own, Control or manage a Massage Establishment is involved in the ownership, Control or management of the Applicant. The Licensing Office may also request such documents as are reasonably believed necessary to verify any of the information in the sworn statement. The failure to provide this sworn statement or supporting information shall be cause for denial of the Massage Establishment Application.

(v) A Massage Establishment License shall not be issued for a physical space at which a licensed Massage Establishment is in operation. For purposes of this Subsection, there shall be a rebuttable presumption that a location with an active Massage Establishment License has a Massage Establishment in operation.

(w) Any Massage Establishment Application that is not in full compliance with this Article sixty (60) calendar days after initial filing shall be denied, provided that the Licensing Office may grant an additional period of up to ninety (90) calendar days upon written application, prior to the expiration of the sixty (60) day period, demonstrating the occurrence of circumstances that were beyond the Applicant's Control or other, similar good cause. Nothing in this Subsection shall be construed to prevent the Licensing Office from denying a License as soon as a legal basis exists to do so.

Sec. 8-8-9. Massage Manager License; Special Requirements

(a) No Manager license shall be issued if the Applicant:

- (1) Has been convicted within the last ten (10) years of any:
 - (i) Felony or misdemeanor offense having a reasonable relationship to the operation of a Massage Establishment;
 - (ii) Offense proscribed by the City of Maricopa City Code; or
 - (iii) Offense proscribed by Chapters 14, 32 or 35.1 of Title 13, Arizona Revised Statutes.
- (2) Falsified the application.
- (3) Has an outstanding warrant for his or her arrest.
- (4) Was a Controlling Person for a Massage Establishment License that was revoked within the previous ten (10) years for an act or acts that occurred while the Controlling Person was a Controlling Person for the Licensee.
- (5) Is not in compliance with any provision of this Article.
- (6) A Massage Manager License shall not be issued if the Applicant has any felony or misdemeanor charges pending in a court of competent jurisdiction having reasonable relationship to the functions of a Massage Establishment. The License will not be processed until such charges are adjudicated.

(b) A Manager or Temporary Manager shall not Knowingly fail to ensure that a Massage Establishment at which he or she is Employed is in compliance with Subsections 8-8-8(D) through (H), (K), (L), (N), and (P) through (R), and Section 8-8-20 of this Article.

Sec. 8-8-10. Location of Massage Establishment

Refer to the City of Maricopa Zoning Code for location requirements. A Massage Establishment License will not be issued for any location not permitted in the City of Maricopa Zoning Code.

Sec. 8-8-11. Payment of Fees and Taxes

An Application for a Massage Establishment or Massage Manager License will not be processed or renewed if the Applicant is delinquent in payment of any City taxes, fees, renewals or other City payments due in accordance with Section 8-1-3 of this Code.

Sec. 8-8-12. Fees

- (a) An Application for a Massage Establishment or Massage Manager License must be accompanied by all fees required by this Chapter or by any other applicable laws, rules or regulations.
- (b) In order for an application to be administratively complete, all fees must have been submitted.
- (c) Submission of the annual renewal form must include the annual fee before it will be processed.

(d) Fees are not prorated, transferable or refundable unless otherwise provided by law.

Sec. 8-8-13. Term of License

Any Massage Establishment License or Massage Manager License, issued pursuant to the provisions of this Article, shall be valid only during the calendar year in which it is issued. Any License may be renewed by filing a renewal application for approval and paying the renewal fee before the first day of the year in which the Applicant wishes to be licensed.

Sec. 8-8-14. Public Hearing on Massage Establishment License; Notice

Refer to the City of Maricopa Zoning Code for requirements.

Sec. 8-8-15. Inspection of Premises, Property and Records

To ensure compliance with this Article and other applicable laws, the business premises of any Person required to be licensed under this Article, including any property on the premises related to the Massage Establishment, must be open to inspection by representatives of the City upon request at any time during the Licensee's regular business hours, or reasonable hours as agreed upon by the Licensee and the City.

Sec. 8-8-16. Grounds for Denial

The following include, but are not limited to, grounds for denial of an Application for a Massage Establishment License:

- (a) The Applicant, or proposed conduct of the Massage Establishment, fails to meet the requirements of this Article or any other applicable provision of this Code or law;
- (b) The Applicant is a corporation which is not qualified to transact business in the state;
- (c) Misrepresentations or material misstatements are made in the Application;
- (d) Harm to the public health, safety or welfare of the community, or clear or present danger of serious damage or danger to the public, would result from granting the license; or
- (e) A business owner, or a managing agent, an Applicant, other managing Employee or a Controlling Person in the business to be licensed has been convicted of:
 - (1) A felony; or
 - (2) A misdemeanor which relates to the activity to be licensed, or has, within two (2) years preceding the date of the issuance of a License, violated any of the provisions of this Article or the Maricopa City Code while conducting a Massage Establishment.

Sec. 8-8-17. Grounds for Revocation, Suspension, or Non-Renewal of License

(a) In addition to the automatic termination of a License as provided in this Article, the License of a Massage Establishment or License of a Massage Manager may be revoked, suspended or denied renewal for any one or more of the following grounds:

- (1) The Licensee has violated the requirements of this Article or any other applicable provision of this Code or law;
- (2) The Licensee has been convicted of fraud in conducting the business or was deceitful in obtaining a License;
- (3) The Licensee has been convicted in a court of competent jurisdiction of a felony or of any misdemeanor which relates to the licensed activity;
- (4) The Licensee is engaged in the business of Massage Therapist, Manager, or Massage Establishment under a false or assumed name, or is impersonating another therapist or Manager of a like or different name;
- (5) The Licensee is grossly ignorant or willfully negligent in the business of the Massage Establishment;
- (6) The Licensee Knowingly files an Application or other document with material information which is false or misleading or Knowingly gives testimony in an investigation or other proceeding which is false or misleading;
- (7) The Licensee is delinquent for more than thirty (30) days in the payment of any applicable taxes or fees payable to the City following formal notice of delinquency;
- (8) That, in the case of a Massage Establishment, the Licensee or any Employee or managing agent thereof fails or refuses to make the premises or records available for inspections and examination as provided in this Article;
- (9) That, in the case of a Massage Establishment, there occurs on the premises repeated acts of violence or disorderly conduct;
- (10) That, in the case of a Massage Establishment, there is any change in services offered or use or configuration of the premises without appropriate approvals from the City;
- (11) That, in the case of a Massage Establishment, the Massage Establishment has operated at a location that has not been licensed for use by the Licensing Office;
- (12) That, in the case of a Massage Establishment, the Licensee has ceased to use the License for purposes of offering Massage Therapy. The failure to offer Massage Therapy at a Massage Establishment for thirty (30) consecutive calendar days shall create a rebuttable presumption that the Licensee has ceased to use the License for purposes of offering Massage Therapy;
- (13) That, in the case of a Massage Establishment, the Licensee has failed to maintain in the records of the Licensing Office, the name of an individual as a Designated Agent.

(b) Unless a specific provision of this Article establishes the penalty for a violation thereof, the License of a Massage Establishment or License of a Manager shall be denied, revoked, suspended, or denied renewal upon any one (1) or more of the following grounds:

- (1) Any Licensee or Applicant has been convicted in a court of competent jurisdiction within the last ten (10) years of a felony or misdemeanor involving prostitution, indecent exposure, pornography, or if the application is false in any regard.
- (2) The Licensee knows or should have known that prostitution, indecent exposure, or pornographic acts are occurring or have occurred in the operation of the Massage Establishment belonging to the Licensee.

(3) The Licensee, Manager, Temporary Manager or Designated Agent has photographed a customer, while the customer was on the premises of a Massage Establishment and located within any treatment room, restroom, locker room or dressing room, without the express, written permission of that customer. For purposes of this paragraph the word “photographed” shall mean the use of any electronic or mechanical device to record, reproduce or transmit an optical image.

(c) The establishment license shall be denied if any of the following persons would be disqualified under this Article:

- (1) The president or other executive officers of a corporate Applicant;
- (2) Each general partner of an Applicant that is a limited partnership or any partner of a non-limited partnership Applicant;
- (3) The managing member(s) or officer(s) of the Applicant;
- (4) Any Controlling Person of the Applicant;
- (5) Sole proprietor.

(d) Upon discovery of a violation, the provisions of Section 8-1-10 of this Chapter shall go into effect:

Sec. 8-8-18. Appeals

Any Person aggrieved by the denial of an Application for License or by the restrictions placed upon the License or by the suspension or revocation of such License, and who is not satisfied with the decision of the City Manager or designee, shall have the right to an appeal before the City Council in accordance with Section 8-1-11 of this Chapter.

Sec. 8-8-19. Application after Denial or Termination

No Person may apply for a Massage Establishment License within one (1) year from:

- (a) The denial of any such License to the Applicant; or
- (b) The suspension, revocation, termination or non-renewal of such License unless the cause of the denial, suspension, termination, revocation or nonrenewal has been, to the satisfaction of the Licensing Office, removed in such time.

Sec. 8-8-20. Display of License

(a) Every on duty Person to whom a Massage Establishment License, Massage Therapist License or Manager License has been granted shall display the License in a conspicuous place upon the business premises that is clearly visible to the general public upon entry to the business. All Massage Therapists shall produce their License and the establishment Licensee is responsible for ensuring all Licenses are properly displayed and current as well as ensuring all persons working in the establishment can produce a government issued identification document with a photo upon request from an authorized agent conducting an inspection pursuant to Section 8-8-8 (d).

(b) A Massage Establishment shall maintain on the business premises for a period of ninety (90) calendar days after the date of last Employment of each Massage Therapist, the following records for each Massage Therapist Employed by that Massage Establishment:

- (1) A copy of the state-issued Massage Therapist license.
 - (2) A copy of the government issued identification document with photo provided pursuant to Section 8-8-20 (a).
- (c) A Massage Establishment shall maintain on the business premises a copy of the most recent sketch or diagram required to be submitted to the Licensing Office pursuant to Section 8-8-6 (19).
- (d) A Licensee, Manager, Temporary Manager or Employee of a Massage Establishment shall make the records required to be maintained by Subsection b and Subsection c available for inspection upon demand by any law enforcement officer or City regulatory license inspections official during any period of time that the business premises are open to the public or lawfully occupied.

Sec. 8-8-21. Display of License Identification Card

Each Massage Therapist shall conspicuously display his or her State of Arizona Massage Therapist identification badge on his or her outer clothing at all times during which he or she is available for or administering Massage Therapy.

Sec. 8-8-22. Transferability; Automatic Termination of License

- (e) Licenses issued hereunder are not transferable.
- (f) The following shall result in automatic termination of a Massage Establishment License:
- (1) Any change in location of a licensed Massage Establishment;
 - (2) Any changes to services offered or use or configuration of the premises without prior approval from the Licensing Office;
 - (3) Upon the sale or transfer of more than fifty percent (50%) of the stock or ownership of the Massage Establishment; or
 - (4) Upon the revocation or termination of any use permit or other zoning approval issued by the City relating to the Massage Establishment.
- (g) A new Application may be made by the Person whose License is terminated as provided in this Section, or by another Person desiring to own or operate a Massage Establishment.

Sec. 8-8-23. Required Logs

All Massage Establishments shall maintain a log of all Massage Therapy administered. The log shall contain the following information: date, time, therapist name, type of Massage Therapy administered, and the address where each Massage Therapy was administered. The log shall be retained for a minimum of one (1) year following any Massage Therapy. The Massage Therapy log shall be subject to inspection upon request, at the Police Department or other mutually agreeable location.

Sec. 8-8-24. Change of Location

A change of location of a Massage Establishment shall be approved by the Licensing Office, provided that the Applicant is in compliance with all City ordinances and regulations, completes the appropriate location change application and submits the required fee. Notwithstanding any other provision of this Article, no Massage Establishment shall be operated or maintained at a location until approved by the Licensing Office and the establishment has a current unsuspended and unrevoked establishment license with the correct name and address posted in a conspicuous place in the establishment.

Sec. 8-8-25. Other Unlawful Activities

(a) It is unlawful:

- (1) For any person to Knowingly conduct or operate a Massage Establishment on the same business premises, as established under Section 8-8-6 (19), whereon is also conducted or operated a sexually oriented business as defined in Chapter 8 of the Maricopa City Code, or a bar, cocktail lounge, photography studio, model studio, art studio, motion picture studio/theater or telephone answering service.
- (2) Any Person to fail or refuse to permit a lawful inspection immediately upon request.
- (3) Any Massage Establishment to permit a Person to conduct Massage Therapy behind a locked door.
- (4) Any Person to administer Massage Therapy for a fee to a Client whose genital organs and anus are not covered by opaque material.
- (5) For any Person, while on the premises of a Massage Establishment, to Knowingly provide or offer to provide any service:
 - (i) In a manner or under circumstances intended to arouse, appeal to or gratify sexual desires.
 - (ii) In such a manner that the person touches the Private Anatomical Areas of the individual receiving the treatment.
 - (iii) While the person providing the treatment is clothed in a manner that fails to cover his or her Private Anatomical Areas with an opaque material.
- (6) For any Person on the premises of a Massage Establishment to intentionally view a completely or partially disrobed Massage Establishment Client if the viewing is not related to treatment under current practice standards and is intended to appeal to the prurient interest of the Massage Therapist or the Massage Establishment Client.
- (7) For any Person, while on the premises of a Massage Establishment, to Knowingly ask or direct a patron to:
 - (i) Touch his or her own anus, genitals or breasts.
 - (ii) Touch the anus, genitals or breasts of any person on the premises.
 - (iii) Expose his or her genitals, anus or breasts to any person on the premises with the intention of appealing to the prurient interest of the Massage Therapist or the Massage Establishment Client.

(8) For any Person, while on the premises of a Massage Establishment, to Knowingly place any part of the body of a patron in direct or indirect contact with the anus, genitals or breasts of any other person on the premises.

(9) For any Person, while on the premises of a Massage Establishment, to Knowingly offer a patron any service in exchange for a gratuity or compensation of any description, that does not appear on the schedule of services required by this Article.

(10) For any Person to Knowingly operate or maintain a Massage Establishment at a location that has not been licensed by the Licensing Office.

(11) For any Person, except an agent for a publicly held corporation, to fail to disclose all Controlling Persons on an Application.

(12) For any Person, to Knowingly use a Massage Establishment as living or sleeping quarters.

(13) It shall be unlawful for any Massage Establishment to have any entrance or exit way providing a direct passageway to any other type of business, residence or living quarters.

(14) To Knowingly provide the services of a Manager to a Massage Establishment without a Manager License or Temporary Manager approval letter from the Licensing Office.

(b) For purposes of this Section, the word *touch* shall include physical contact that occurs through clothing or by means of any object.

Sec. 8-8-26. Exemptions

The provisions of this Article shall not apply to:

(a) Establishments whose Employees are authorized by the laws of this state to practice medicine, osteopathy, chiropractic, podiatry, naturopathy, or acupuncture;

(b) Establishments whose Employees are acting as trainers for any bona fide amateur, semiprofessional, or professional athletic team or athlete.

(c) Establishments whose Employees are authorized by the laws of this state as barbers or cosmetologists, provided their activity is limited to the scope of their barber or cosmetology license;

(d) Establishments whose Employees are providing colon irrigation only.

(e) Businesses that are operating solely as a school that is Arizona State Board of Massage Therapy-approved.

Sec. 8-8-27. Penalty

(a) A violation of this Article is an offense, punishable as provided in Article 1-8 of this Code. Each day on which a violation continues shall be a separate offense.

(b) In addition to the penalties provided for in this Section, a violation of this Article is grounds for revocation of a business license as provided in Section 8-8-17 of this Article.