



MASSAGE ESTABLISHMENTS AND MANAGERS

| <u>License</u> | <u>Application Fee</u> | <u>Permit Fee 1st Year License</u> | <u>Annual Renewal</u> | <u>Approval Required</u> |
|-------------------------------|---|---|----------------------------------|---------------------------------|
| Massage Establishment | \$550.00 | \$30.00 | \$30.00 | Police, NSD, & Planning |
| Massage Establishment Manager | \$65.00 (includes 1 st year license fee) | \$25.00 after first year | \$25.00 | Police |

Application fees are not refundable and cannot be applied to license fees. (P.C.C. Section 10-19)

To expedite service, please contact License Services and make an appointment.

Call (602) 262-4638 Option 4, between 8 a.m. and 5 p.m., Monday - Friday.

*** All massage establishment applicants should call the City of Phoenix Planning & Development Department at (602) 262-7131 to see if their location is zoned properly prior to making an appointment to apply for their license.**

Massage Establishment application processing time frame: License Services will take action (approve or initiate denial) on a pending application within approximately 90 days from the date the application is received. This time frame includes: Processing fingerprints, Departmental reviews, and License Services administrative review.

ARTICLE III. MASSAGE PRACTITIONERS, MASSAGE ESTABLISHMENT MANAGERS AND MASSAGE ESTABLISHMENTS

Sec. 10-16. Definitions.

The following words and phrases, wherever used in this Article, shall be construed as defined in this Section unless from the context a different meaning is intended:

1. *Applicant* means a person who applies for a manager permit or a massage establishment license.
2. *Controlling person* means any individual who has a twenty percent or greater interest in the ownership or the earnings of the business.
3. *Designated agent* means the individual designated by the applicant to receive city notices pursuant to this Article.
4. *Employ* means 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, independent contractor, trainee, student or otherwise.
5. *Knowingly* means, with respect to conduct or a circumstance described in this Article, 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.
6. *Licensee* means the person who applied for a massage establishment license and in whose name a license has been issued by the City Clerk pursuant to this Article.
7. *Manager* means an individual authorized by the licensee to exercise overall operational control of the business, to supervise employees, or to fulfill any of the functions required of a manager by this Article.
8. *Massage or touching techniques* means 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; colon irrigation; 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.

9. *Massage establishment* means any place of business or establishment wherein any of the subjects or methods of treatment listed in paragraphs 8 or 12 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 8 or 12.
10. *Massage practitioner* means a person who practices or administers any of the subjects or methods or treatment listed in paragraphs 8 or 12 for a fee, income or compensation of any kind within the City of Phoenix.
11. *Massage therapist* means 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.
12. *Massage therapy* means the following that are undertaken to increase wellness, relaxation, stress reduction, pain relief and postural improvement or provide general or specific therapeutic benefits:
 - a. 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.
 - b. The manual application of compression, stretch, vibration or mobilization using the forearms, elbows, knees or feet or handheld mechanical or electrical devices.
 - c. Any combination of range of motion, directed, assisted or passive movements of the joints.
 - d. Hydrotherapy, including the therapeutic applications of water, heat, cold, wraps, essential oils, skin brushing, salt glows and similar applications of products to the skin.
13. *Permittee* means the person in whose name a permit has been issued by the City Clerk pursuant to this Article.
14. *Practice of massage therapy* means the application of massage therapy to any person for a fee or other consideration. Practice of massage therapy does not include the diagnosis of illness or disease, medical procedures, naturopathic manipulative medicine, osteopathic manipulative medicine, chiropractic adjustive procedures, homeopathic neuromuscular integration, electrical stimulation, ultrasound, prescription of medicines or the use of modalities for which a license to practice medicine, chiropractic, nursing, occupational therapy, athletic training, physical therapy, acupuncture or podiatry is required by law.
15. *Private anatomical areas* means 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.

Sec. 10-17. City Clerk; duties.

It shall be the duty and responsibility of the City Clerk of the City of Phoenix or her designee to administer the provisions of this Article; and pursuant to this duty the City Clerk or her designee shall issue, renew, deny, suspend or revoke massage establishment licenses and manager permits as required by this Article.

Sec. 10-18. Massage therapists; Licensing of massage establishments required; Exclusions.

- 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 Chapter 42, Title 32, Arizona Revised Statutes.
- B. It is unlawful for any person to conduct or operate a massage establishment 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 person licensed as provided in this Article to operate under any name or conduct business under any designation not specified in such license.
- D. It is unlawful for any massage establishment licensed as provided in this Article to conduct business at any

location not specified in such license.

- E. 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 either a barber, aesthetician, cosmetologist, or nail technician pursuant to Title 32, Arizona Revised Statutes, and who practice within the scope of that person's license.

Sec.10-19. New license application; fee.

- A. Any person desiring to obtain a massage establishment license or manager permit shall make separate application to the City Clerk on the form provided by the City Clerk for that purpose. The City Clerk shall refer the application for each applicant, controlling person and designated agent to the Chief of Police, or his designee, for appropriate investigation.
- B. The application shall be accompanied by a non-refundable fee of:
 - 1. Five hundred fifty dollars when the application is for a massage establishment license.
 - 2. Sixty-five dollars when the application is for a manager permit.
- C. After approval and prior to the issuance of a massage establishment license, the applicant shall pay a first year license fee of thirty dollars.
- D. In addition to the fee required by subsection B, the applicant, each controlling person and the designated agent for a massage establishment license shall pay the City Clerk the fee established by the Director of the Arizona Department of Public Safety for the processing of state noncriminal justice fingerprints. This fee shall be paid for each person, after the first person, required to submit fingerprints pursuant to Section 10-20 or Section 10-20.1.

Sec.10-20. Massage establishment license application; contents; separate license; husband and wife; business hours.

- A. Each applicant for a massage establishment license shall submit, as applicable, the following:
 - 1. The full legal name, business name, business phone number, legal form of applicant, current residential phone number, and current residence or legal address of the applicant.
 - 2. Physical description, and date and place of birth.
 - 3. Any other names by which the applicant has been known.
 - 4. The address at which the applicant desires to do business.
 - 5. The applicant's mailing address for purposes of receiving city notices and other licensing correspondence relating to the applicant, the licensee, or the enforcement of this Article.
 - 6. Business hours.
 - 7. All residence addresses for the five-year period prior to the date of application, and the dates of residence at each.
 - 8. The name or names of all managers and the designated agent.
 - 9. The name or names of all controlling persons.
 - 10. Applicant's business, occupation and employment history for the five-year period immediately preceding the date of application, including addresses and dates of employment.
 - 11. Written proof, in the form of a current driver's license with picture, or other current picture identification document issued by a governmental agency, that the applicant has reached the age of eighteen years.
 - 12. The business license history of the applicant; whether the applicant, while operating in this or another city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such suspension or revocation.

13. All felony and misdemeanor convictions, excluding those for civil traffic offenses, and the grounds for such convictions.
14. The applicant's complete fingerprints, recorded by the Police Department.
15. The articles of incorporation, articles of organization, or certificate of limited partnership, together with any amendments thereto, for the applicant, as applicable.
16. A list of services to be offered by the massage establishment.
17. A clearly legible sketch or diagram showing the configuration of the overall business premises that includes:
 - a. The location of all interior doors, walls, curtains and room dividers.
 - b. 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 applicant.
 - c. 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.
 - d. 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.
 - e. The location of the business license required to be displayed pursuant to subsection 10-24(A).

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)(17), a "wall" shall include any interior barrier, including transparent glass, that extends more than fifty-four inches from the level of the finished floor.

18. Such other identification and information as the City Clerk may require in order to discover the truth of the matters above required to be set forth in the application.
- B. A separate license shall be required for each room or space on the business premises of a massage establishment that has been designated pursuant to this Section as available for lease, sublease or license by any other person, and is otherwise required to be licensed as a massage establishment pursuant to this Article.
 - C. A single license shall be issued to an applicant that consists of a husband and wife.
 - D. The business hours submitted pursuant to this Section may not be between 12:00 midnight and 6:00 a.m.

Sec.10-20.1. Controlling person and designated agent applications; contents.

Each controlling person and the designated agent for a massage establishment applicant shall submit the following:

1. Full legal name, physical description and date and place of birth.
2. Any other names by which the applicant has been known.
3. Current residence address.
4. All residence addresses for the five-year period immediately prior to the date of application, and the dates of residence at each.
5. All employment for the five-year period preceding the date of application with dates and addresses for each.
6. Written proof, in the form of a current driver's license with picture, or other current picture identification document issued by a governmental agency, that the controlling person or designated agent has

reached the age of eighteen years.

7. All felony and misdemeanor convictions, excluding those for civil traffic offenses, and the grounds for each.
8. The controlling person's or designated agent's complete fingerprints, recorded by the Police Department.
9. The business license history of the controlling person or designated agent; whether the controlling person or designated agent, while operating in this or another city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such suspension or revocation.
10. Such other identification and information as the City Clerk may require in order to discover the truth of the matters above required to be set forth in the application.

Sec. 10-20.2. Manager permit application; contents.

An applicant for a manager permit shall submit the following:

1. Full legal name, physical description, and date and place of birth.
2. Any other names by which the applicant has been known.
3. Current residence address, mailing address and telephone number.
4. All residence addresses for the five-year period immediately prior to the date of application, and the dates of residence at each.
5. All employment for the five-year period preceding the date of application with dates and addresses for each.
6. Written proof, in the form of a current driver's license with picture, or other current picture identification document issued by a governmental agency, that the applicant has reached the age of eighteen years.
7. All felony and misdemeanor convictions, excluding those for civil traffic offenses, and the grounds for each.
8. The business license history of the applicant; whether the applicant, while operating in this or another city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such suspension or revocation.
9. One digital photograph of the applicant taken by the City at the time of application.
10. Such other identification and information as the City Clerk may require in order to discover the truth of the matters above required to be set forth in the application.

Sec. 10-20.3. Information update.

- A. Except as provided in subsections B, C, D and E, any change in the information required to be submitted by this Article shall be submitted to the City Clerk, on the form prescribed by the City Clerk for that purpose, within ten calendar days of any such change.
- B. No change in the services offered by a massage establishment shall be made without first providing to the City Clerk a revised schedule of services offered on the form prescribed by the City Clerk for that purpose.
- C. No change in the use or configuration of the premises of a massage establishment shall occur until the licensee has submitted notification of that change to the City Clerk on the form prescribed by the City Clerk for that purpose.
- D. No addition or substitution of a manager or designated agent shall occur until the licensee has submitted notification of that addition or substitution to the City Clerk on the form or application prescribed by the City Clerk for that purpose.

- E. No change in the applicant's mailing address for purposes of receiving City notices and other licensing correspondence relating to the applicant, the licensee, the permittee, or the enforcement of this Article shall occur until the licensee or permittee has submitted notification of that change to the City Clerk on the form prescribed by the City Clerk for that purpose.

Sec.10-21. License and permit application investigation.

Any applicant, controlling person or designated agent for a license, or any applicant for a permit issued pursuant to this Article shall personally appear at the office of the City Clerk and shall present the application containing the information required by Section 10-20, 10-20.1 or 10-20.2, as applicable. The City Clerk may receive and review the criminal history record information, including conviction and non-conviction data, of license applicants for the purpose of evaluating the fitness of prospective licensees, controlling persons or designated agents in connection with the issuance, renewal, suspension or revocation of a massage establishment license or manager permit. Such information shall be used only for the purpose of such evaluation. The City Clerk shall submit a full set of the applicant's fingerprints to the Arizona Department of Public Safety for the purpose of obtaining a State noncriminal records check pursuant to Section 41-1750, Arizona Revised Statutes, and Public Law 92-544. The Police Department shall have a reasonable time within which to investigate the application and background of the applicant, controlling persons and designated agent. Based on such investigation, the Police Department shall recommend to the City Clerk approval or denial of the license.

Sec. 10-22. Massage establishment license; special requirements.

- A. No massage establishment license shall be issued if the applicant, a controlling person or designated agent has been convicted within the last five years of any felony or misdemeanor offense having a reasonable relationship to the functions of a massage establishment licensee, if the application was deliberately falsified, if the applicant, a controlling person or designated agent has an outstanding warrant for his arrest, or if the applicant, a controlling person or designated agent is not in compliance with any provision of this Article.
- B. No massage establishment license shall be issued if the applicant, a controlling person or designated agent has been convicted within the last five years of any offense proscribed by Chapters 14, 32, and 35.1 of the Arizona Criminal Code (Title 13, Arizona Revised Statutes), or by Sections 23-52 and 23-53 of this 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 Sections 23-52 and 23-53 of this Code.
- C. An applicant for a massage establishment license, a controlling person or a designated agent 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 or 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. The inspection authorized by this subsection shall be limited to:
 - 1. Those areas of the premises available to patrons, provided that no inspection shall be done of a room occupied by a patron until the patron has been given a reasonable opportunity to dress, gather his personal effects and exit the room.
 - 2. All dressing, toilet, bathing and wash basin facilities.
 - 3. Any location used to disinfect and sterilize equipment as required by subsection D.
 - 4. Any location used to store linens as required by subsection D.
- D. A massage establishment licensee shall comply with the following requirements and no massage establishment license shall be issued unless inspection by a city agency or, where appropriate, a county agency, indicates that the site of the establishment complies with each of the following requirements:
 - 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 the Construction Code of the City of Phoenix.
 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 10-16(8) or (12).
 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 colon therapy, colonics, or 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 the Construction Code of the City of Phoenix or Maricopa County, 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 colon therapy, colonics, or hydrotherapy services, including whirlpool baths, saunas, steam baths and herbal wraps.
 12. A locker containing an interior volume of at least .18 cubic feet shall be provided to each patron to be served in either the treatment room or a locker room on the business premises.
- E. 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.
- F. It is unlawful to employ a massage practitioner whose true name and, if the massage practitioner is also a massage therapist, State-issued massage therapist license number has not been previously provided to the City Clerk on the form prescribed by the City Clerk for that purpose.
- G. The name of any person provided to the City Clerk pursuant to subsection F whose employment at the massage establishment has terminated shall be reported to the City Clerk, on the form prescribed by the City Clerk for that purpose, within ten calendar days after termination.
- H. A massage establishment licensee shall file with the City Clerk, on the form provided by the City Clerk for that purpose, the name and permit number of each person authorized to fulfill the functions of a manager at the massage establishment. During any period of time that a massage establishment does not have a properly permitted manager recorded with the City Clerk pursuant to this subsection physically located on the business premises, the designated agent shall be responsible for fulfilling the duties of a manager pursuant to this Article.
- I. It is unlawful for any person to knowingly employ at a massage establishment a manager who has been convicted within the previous five years of any of the offenses listed in subsection 10-22(B).
- J. 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 City Clerk pursuant to Section 10-20.
- K. 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 City Clerk pursuant to Section 10-20.

- L. A massage establishment applicant shall be in compliance with the City Zoning Code on the date of application.
- M. A massage establishment applicant or licensee shall comply at all times with the City Zoning Code.
- N. A massage establishment applicant shall be in compliance with the Construction Code of the City of Phoenix on the date of application.
- O. A massage establishment applicant or licensee shall comply at all times with the Construction Code of the City of Phoenix.
- P. It is unlawful for any massage establishment to remain open for business, to provide services, to dispatch massage practitioners, or to permit massage practitioners to work off the premises on behalf of that massage establishment at any time between the hours of 12:00 midnight and 6:00 a.m.
- Q. No massage establishment shall be open for business during hours that have not been provided to the City Clerk as required by this Article.
- R. It is unlawful to employ any person to act as a manager at any massage establishment who is not either licensed as a manager pursuant to this Article or the designated agent for the massage establishment in the records of the City Clerk.
- S. Notwithstanding any other provision of this Article, the City Clerk may, in her discretion, delay the granting or denial of a massage establishment license, upon the submission of a complete application, for a period of up to 90 days if there exists, or did exist within the 60 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 License Appeal Board 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.
- T. The applicant for any massage establishment license for a location at which a massage establishment license was revoked or suspended within the previous six months shall provide to the City Clerk a sworn statement, in a form prescribed by the City Clerk, verifying that no person not qualified to own, control or manage a massage establishment is involved in the ownership, control or management of the applicant. The City Clerk 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.
- U. 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.
- V. Any massage establishment application that is not in full compliance with this Article sixty days after initial filing shall be denied, provided that the City Clerk may grant an additional period of up to ninety days upon written application, prior to the expiration of the sixty-day period, demonstrating the occurrence of circumstances beyond the applicant's control or other, similar good cause. Nothing in this subsection shall be construed to prevent the City Clerk from denying a license as soon as a legal basis exists to do so.

Sec. 10-23. Reserved.

Sec. 10-23.1. Manager permit; special requirements.

- A. No manager permit shall be issued if the applicant:
 - 1. Has been convicted within the last five years of any:
 - a. Felony or misdemeanor offense having a reasonable relationship to the operation of a massage establishment;

- b. Offense proscribed by Sections 23-52 or 23-53 of this code; or
- c. Offense proscribed by Chapters 14, 32 or 35.1 of Title 13, Arizona Revised Statutes.

- 2. Deliberately falsified the application.
- 3. Has an outstanding warrant for his arrest.
- 4. Was a controlling person or designated agent for a massage establishment license that was revoked within the previous five years for an act or acts that occurred while the controlling person or designated agent was a controlling person or designated agent for the licensee.
- 5. Is not in compliance with any provision of this Article.

B. A manager shall not knowingly fail to ensure that a massage establishment at which he is employed is in compliance with subsections 10-22(C) through (K), (M), and (O) through (R), and Section 10-24.

Sec. 10-23.2. Applications; additional requirements.

A. No license or permit shall be issued to an individual if the individual does not present any of the following documents to the City Clerk indicating that the individual's presence in the United States is authorized under Federal Law:

- 1. An Arizona driver license issued after 1996 or an Arizona nonoperating identification license.
- 2. A driver license issued by a state that verifies lawful presence in the United States.
- 3. A birth certificate or delayed birth certificate issued in any state, territory or possession of the United States.
- 4. A United States certificate of birth abroad.
- 5. A United States passport.
- 6. A foreign passport with a United States Visa.
- 7. An I-94 Form with a photograph.
- 8. A United States citizenship and immigration services employment authorization document or refugee travel document.
- 9. A United States certificate of naturalization.
- 10. A United States certificate of citizenship.
- 11. A tribal certificate of Indian blood
- 12. A tribal or Bureau of Indian Affairs Affidavit of Birth.

B. This section does not apply to an individual, if all of the following apply:

- 1. The individual is a citizen of a foreign country or, if at the time of application, the individual resides in a foreign country.
- 2. The benefits that are related to the license do not require the individual to be present in the United States in order to receive those benefits.

Sec. 10-24. Display of license or permit; retention and inspection of records.

A. Every person to whom a massage establishment license or manager permit has been granted shall display the license or permit in a conspicuous place upon the business premises that is clearly visible to the general public upon entry to the business.

B. A massage establishment shall maintain on the business premises the following records for each massage

practitioner employed by that massage establishment:

1. A copy of the State-issued massage therapy license, if the massage practitioner is also a massage therapist.
 2. For every massage therapist who does not possess a State-issued massage therapist license that bears a photograph of the licensee, and for every massage practitioner who is not also a massage therapist, a clearly-legible copy of a current picture identification document issued by a governmental agency.
 3. A massage establishment shall maintain the records required by paragraphs 1 and 2 on the business premises for a period of 90 calendar days after the date of last employment of each massage practitioner or massage therapist.
- 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 City Clerk pursuant to Section 10-20.
- D. A licensee, manager or employee of a massage establishment shall make the records required to be maintained by paragraphs (B)(1) and (B)(2) 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.10-25. Change of Location.

A change of location of a massage establishment shall be approved by the City Clerk, provided that the applicant is in compliance with all city ordinances and regulations and a fee of \$210.00 is paid to the City Clerk. Notwithstanding any other provision of this Article, no massage establishment shall be operated or maintained at a location that has not been approved by the City Clerk.

Sec.10-25.1. Expiration of license or permit; renewal.

- A. A license or permit issued pursuant to this Article shall expire on December 31.
- B. Before the first day of January of each year, every licensed massage establishment shall pay to the City Clerk a renewal fee of thirty dollars.
- C. Before the first day of January of each year, every permitted manager shall pay to the City Clerk a renewal fee of twenty-five dollars.
- D. Any person licensed or permitted pursuant to this Article shall complete a license or permit renewal form as prescribed by the City Clerk.
- E. The holder of either an expired manager permit or an expired massage establishment license may, within thirty-one calendar days after the date of expiration thereof, have the license or permit renewed upon payment of the required renewal fee and submittal of the required renewal form.
- F. The renewal of a license or permit pursuant to subsection E shall not have retroactive effect.

Sec.10-25.2. Reserved.

Sec.10-25.3. Other unlawful activities; general penalty.

- A. It is unlawful:
 1. For any person to knowingly conduct or operate a massage establishment on the same premises whereon is also conducted or operated a sexually oriented business as defined in this Chapter, an escort bureau as defined in this Chapter, an adult bookstore as defined in the Zoning Ordinance, or a bar, cocktail lounge, photography studio, model studio, art studio, or telephone answering service.
 2. For any person, while on the premises of a massage establishment, to knowingly provide or offer to provide any service:
 - a. In a manner or under circumstances intended to arouse, appeal to or gratify sexual desires.

- b. In such a manner that the person touches the private anatomical areas of the individual receiving the treatment.
 - c. 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.
- 3. 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 practitioner or the massage establishment client.
- 4. For any person, while on the premises of a massage establishment, to knowingly ask or direct a patron to:
 - a. Touch his own anus or genitals.
 - b. Touch the anus or genitals of any person on the premises or the breasts of any female person on the premises.
 - c. Expose his genitals or anus to any person on the premises with the intention of appealing to the prurient interest of the massage practitioner or the massage establishment client.
- 5. 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 or genitals of any other person on the premises or the breasts of any female person on the premises.
- 6. 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 Section 10-20.
- 7. For any person to knowingly operate or maintain a massage establishment at a location that has not been licensed by the City Clerk.
- 8. To knowingly provide the services of a manager to a massage establishment without a manager permit.
- B. For purposes of this Section, the word *touch* shall include physical contact that occurs through clothing or by means of any object.
- C. Whenever in this Article any act is prohibited or declared to be unlawful, and wherever in this Article the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of this Article is a Class One misdemeanor. Each day any such violation continues shall constitute a separate offense. Revocation or suspension of a license or permit shall not be a defense against prosecution.

Sec.10-25.4. Revocation, suspension or nonrenewal of license or permit; grounds.

- A. The license of a massage establishment or the permit of a manager, may be revoked, suspended or denied renewal upon any one or more of the following grounds:
 - 1. That the licensee, a controlling person, designated agent, or permittee is guilty of fraud in conducting the business of a massage establishment or of fraud or deceit in obtaining a license or permit.
 - 2. That the licensee, a controlling person, designated agent or permittee has been convicted within the last five years in a court of competent jurisdiction of a felony or misdemeanor offense having a reasonable relationship to the functions of a massage establishment or a massage practitioner.
 - 3. That the licensee, a controlling person, designated agent or permittee is guilty of untrue, fraudulent, misleading or deceptive advertising.
 - 4. That the licensee, a controlling person, designated agent or permittee is engaged in the business of massage practitioner, massage manager or massage establishment under a false or assumed name, or is impersonating another practitioner or manager of a like or different name.
 - 5. That the licensee, a controlling person, designated agent or permittee has violated any of the provisions

of this Article. This paragraph shall apply regardless of the location at which the violation occurred.

6. That, in the case of a massage establishment, any individual who did not qualify as a controlling person at the time the license was issued has acquired a twenty percent or greater interest in the licensee.
7. 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 massage establishment by the City Clerk.
8. That, in the case of a massage establishment, the licensee has ceased to use the license for purposes of offering massage or touching techniques or massage therapy. The failure to offer massage or touching techniques or massage therapy at a massage establishment for thirty consecutive days shall create a rebuttable presumption that the licensee has ceased to use the license for purposes of offering massage or touching techniques or massage therapy.
9. That, in the case of a massage establishment, the licensee has failed to maintain in the records of the City Clerk the name of an individual as a designated agent who has not been convicted of an offense listed at subsection 10-22(B) within the previous five years.
10. That the licensee, a controlling person, designated agent or permittee has knowingly 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.

B. Notwithstanding the provisions of subsection A of this Section, the license of a massage establishment, or the permit of a manager, shall be revoked or denied renewal if the licensee, a controlling person, designated agent or permittee has been convicted within the last five years of any offense proscribed by Chapters 14, 32, and 35.1 of the Arizona Criminal Code (Title 13, Arizona Revised Statutes) or by Sections 23-52 and 23-53 of this Code, or any offense committed outside this State or City which 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 Sections 10-25.3 (A)(2) through (A)(6), 23-52 or 23-53 of this Code.

C. Notwithstanding the provisions of subsection A of this Section, the license of a massage establishment shall be revoked or denied renewal if on two or more occasions within a twelve month period, the licensee, a controlling person, designated agent, or an agent, employee or independent contractor of the licensee, a controlling person or designated agent, while on the premises of the licensee, commits an offense proscribed by Chapter 14, Chapter 32, or Chapter 35.1 of the Arizona Criminal Code (Title 13, Arizona Revised Statutes), Section 10-25.3, paragraphs (A)(2) through (A)(6), Section 23-52 or Section 23-53 of this Code. In order to establish the application of this Section, the City Clerk is not required to prove that the same person, or category of person, committed both offenses.

D. Notwithstanding the provisions of subsection A of this Section, the permit of a manager shall be revoked or denied renewal if:

1. The manager has knowingly hired any person to engage in the practice of massage therapy who did not then possess a valid massage therapist license issued pursuant to Chapter 42, Title 32, Arizona Revised Statutes.
2. A person who does not possess a massage therapist license has provided massage therapy on the premises of a massage establishment, regardless of compensation, while the manager was present at that massage establishment. For purposes of this paragraph, a massage therapist with a suspended massage therapist license is an unlicensed massage therapist.
3. The manager was present on the premises of a massage establishment while two or more violations of paragraph 10-25.3(A) occurred within a consecutive twelve month period on at least two separate calendar days.

For purposes of paragraphs 2 and 3 of this subsection, it shall not be a defense that the licensee, a controlling person, designated agent or another manager was present on the premises at the time of the violation.

4. The manager has knowingly permitted massage or touching techniques or massage therapy to be

offered by the licensee in any location of the business not specifically identified as available for such services on the sketch or diagram required to be submitted to the City Clerk pursuant to Section 10-20 or in any location of the business identified as leased, subleased or licensed for use by any person other than the licensee on that same sketch or diagram.

- E. To deny, suspend or revoke a license or permit, the City Clerk shall personally serve or mail by certified mail to the licensee's or permittee's address as shown on the application, or otherwise more recently of record, a written notice that said license or permit is denied, suspended or revoked. Personal service may be upon the massage establishment licensee or upon any responsible person at the business address on file with the City Clerk, or at the actual business address, if different. The cause for such denial, suspension or revocation shall be set forth in the notice. A suspended or revoked license or permit shall be surrendered to the City Clerk on demand. An applicant, licensee, or permittee may appeal the denial, nonrenewal, suspension or revocation of a license or permit to the License Appeal Board pursuant to the provisions of Chapter 19, Article [II] of this Code. If the denial, nonrenewal, suspension or revocation of a license or permit results from a conviction, the applicant, licensee, or permittee shall be given an opportunity upon appeal to explain the circumstances of the conviction or demonstrate why such conviction does not render the applicant, licensee, or permittee unfit for a license or permit.
- F. Neither the suspension nor the revocation of a license or permit issued pursuant to this Article shall be affected by the voluntary surrender of that license or permit.

Sec.10-25.5 Denial, revocation or nonrenewal of license or permit; appeal.

- A. No massage establishment license shall be issued for one year from the date the denial, revocation or nonrenewal became effective, to an applicant, or to an applicant that has a controlling person or designated agent, who was listed on an application or on a massage establishment license that was denied, denied renewal or revoked pursuant to:
 - 1. Subsections 10-22(C), (E) through (K), (M), and (O) through (R).
 - 2. Paragraphs 10-25.4(A)(5), (6), (7) and (9).
 - 3. Section 10-24.
 - 4. Paragraphs 10-25.3(A)(1), (6), (7) and (8).
 - 5. Subsections 10-18(C) and (D).
- B. No massage establishment license shall be issued for one year from the date the revocation became effective to an applicant, or to an applicant that has a controlling person or designated agent, who was listed on a license that was revoked pursuant to subsection 10-22(D).
- C. No massage establishment license shall be issued for five years from the date the denial, revocation or nonrenewal became effective, to an applicant, or to an applicant that has a controlling person or designated agent, who was listed on an application or on a massage establishment license that was denied, denied renewal or revoked pursuant to:
 - 1. Subsection 10-22(A) as the result of a conviction, provided, however, that an applicant shall not be granted another license until five years have elapsed from the date of conviction.
 - 2. Subsection 10-22(A) as the result of the deliberate falsification of the application.
 - 3. Subsection 10-22(B), provided that an applicant shall not be granted another license until five years have elapsed from the date of conviction.
 - 4. Paragraphs 10-25.4(A)(1), (3), (4) or (10).
 - 5. Paragraph 10-25.4(A)(2), provided that an applicant shall not be granted another license until five years have elapsed from the date of conviction.
 - 6. Subsections 10-22(C) and (E) through (R) if the denial, revocation or nonrenewal involved fraud, misrepresentation or deceit on the part of the applicant, a controlling person, designated agent or

licensee.

7. Subsections 10-25.4(B), (C) and (D).

8. Paragraphs 10-25.3(A)(2) through (5).

D. The denial, revocation or nonrenewal of a manager's permit shall continue for five years if issued pursuant to:

1. Paragraph 10-23.1(A)(1), provided, however, that an applicant shall not be granted another permit until five years have elapsed from the date of the conviction.

2. Paragraph 10-23.1(A)(2).

3. Paragraphs 10-25.4(A)(1), (3), (4), (5), (7), (9) or (10).

4. Paragraph 10-25.4(A)(2), provided, however, that an applicant shall not be granted another permit until five years have elapsed from the date of the conviction.

5. Subsection 10-25.4(B), provided, however, that an applicant shall not be granted another permit until five years have elapsed from the date of the conviction.

6. Subsections 10-25.4(C) and (D).

E. The suspension of a massage establishment license shall continue for a specified period not to exceed one year. No new massage establishment application may be approved, or license or permit granted, for any person, regardless of the percentage of interest that person possesses in the new applicant, who has had a license or permit suspended pursuant to this Article, until the period of that suspension has expired.

F. The fact that a conviction is being appealed or a judgment of guilt is set aside pursuant to A.R.S. § 13-907 shall have no effect on the denial, suspension, revocation or nonrenewal of a license or permit under this Article.

Sec.10-25.6. Reserved.

Sec.10-25.7. Reserved.

Sec.10-25.8. Reserved.

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