

# CITY COUNCIL REPORT



**Meeting Date:** June 4, 2013  
**General Plan Element:** *Economic Vitality*  
**General Plan Goal:** *Sustain Scottsdale as a tourist destination*

## ACTION

**Adopt Ordinance No. 4023 to amend Chapter 16, Article VI, Massage Facilities.**

**Adopt Resolution No. 9068 to declare Exhibit A, entitled "Article VI, Massage Therapists and Massage Facilities Licenses, Chapter 16 of the Scottsdale Revised Code" as a public record.**

## BACKGROUND

Chapter 16, Article VI of the Scottsdale Revised Code, Massage Therapists and Massage Facilities Licenses, was last updated on June 3, 2003. At that time the Code was updated to provide more effective means for the city to enforce the law against illegal acts, to improve safety for massage clients and to enhance the industry reputation in Scottsdale.

The current proposed updates are being made to address similar concerns, to enhance public health and safety, to elevate public confidence in the City of Scottsdale licensed massage facilities, to facilitate enforcement of the law, and to update, clarify and align language with State statutes. One major change to Article VI is the removal of city licensing regulations for Massage Therapists, since the State now licenses Massage Therapists for all jurisdictions.

## ANALYSIS & ASSESSMENT

### Recent Staff Action

The Massage Ordinance Revision Cross Departmental Team has been meeting regularly since September 13, 2011. The team was made up of representatives from the City Attorney's Office, the Police Department, the Office of Communications and Tax and License. During these meetings Article VI, the Massage Therapists and Massage Facilities License code, was reviewed to identify and update language, fees, and to add violation provisions to prevent illegal activity. The language was also updated to align with State law and clarify when a Massage Facility License is not required.

Several public forums were held; please see the information outlined in the Community Involvement section below for dates. The ordinance was reviewed after each public forum and revisions were further refined based on the input from the Massage industry in Scottsdale. In addition to the public meetings, input was solicited by e-mail, phone and regular mail. Each

respondent received a reply specific to their concerns. (Attachment 3 is a summary of public input and response/action from the working group.)

### **Significant Issues to be Addressed**

One of the primary updates made to the Massage Facility code was to emphasize the important role of the on-site manager. The revisions impose the requirement that there be an identified on-site manager (who could be a massage therapist) at all times when someone in the facility is administering massage. All on-site managers will go through a background check and will be issued an on-site manager ID card. While the current ordinance requires an on-site manager, it does not require coverage at all times when massage is performed. These changes were made to assist the Police Department in conducting their inspections of Scottsdale Massage Facilities. This requirement will create accountability for management oversight at all Massage Facilities.

The fee structure was also revised. Although the cost of the license itself went up by \$40 a year, the application fee for renewal licenses has been eliminated, addressing one of the concerns of the Scottsdale massage industry. Previously, a renewal application filed timely cost a \$100 application fee and a \$260 License fee. Under the updated ordinance, a renewal that is filed timely will be charged a \$300 License fee only, effectively reducing the cost by \$60. Facility licenses that are not renewed timely will continue to be charged the application fee and a late fee that previously was \$180 and now is \$200. (Attachment 4 is the proposed fee schedule).

Additional specific acts that constitute violations of the law were added to the revisions in Ordinance 4023. (Attachment 5, section 16-221 (a) (10) through (12), (d) and (e)). These were added to enhance public health and safety and to give additional support for enforcement against illegal acts.

### **Community Involvement**

Contact information for feedback was provided on the City of Scottsdale website starting on February 15, 2012. (Attachment 6 shows the current text of the webpage). A focus group was held with selected owners of Scottsdale Massage Facilities on February 16<sup>th</sup> from 1 to 4:00 p.m. at the Via Linda Police Department. This was a preliminary meeting to help staff gauge the industry's perspective on the proposed changes.

An additional three public meetings were held to gather feedback. Two public meetings were held on Tuesday March 13, 2012 from 10 to 11:30 a.m. and on Thursday March 15, 2012 from 5 to 6:30 p.m. A third public forum was added on May 3, 2012 to ensure that the industry had sufficient opportunity to provide feedback. During the focus group meeting and the public meetings the changes to the Massage Facility ordinance were reviewed and input was sought from attendees. Several revisions were made after each meeting in response to concerns or requests for clarification. A Question and Answer document was also posted on the website, [www.scottsdaleaz.gov/codes/massage](http://www.scottsdaleaz.gov/codes/massage) with answers to specific concerns that business owners had.

All licensed massage facilities were sent a letter prior to the public meetings advising them of the dates and times for the meetings. This communication also provided information about the

website that included the text of the proposed updates, a summary of the changes and a way to provide feedback by regular mail, e-mail or phone.

After receiving feedback from the community, staff met and made changes to the ordinance updates to address some of the concerns. Additionally, when the issue of mobile massage units was raised, changes were made to include language to cover these types of operations. A second letter was sent to all licensed massage facilities advising of the changes and giving the industry another opportunity to provide feedback.

## **RESOURCE IMPACTS**

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### **Staffing, Workload Impact**

Current Tax and License staff will be able to handle the additional requirements of the ordinance changes. The additional ID cards and photos can be processed on the equipment that Tax and License currently uses. Programming changes will be handled by the Business Services Technical team. Guideline materials, applications and web pages will need to be updated and will also be handled by current staff. The Police Department has a unit in place that conducts inspections of Massage Facilities and they will continue to administer the inspections.

### **Maintenance Requirements**

Both the computer programming and other administrative processing costs will be covered by the increased fees and the current budget for the departments.

### **Cost Recovery Options**

The fees for the license and late renewal of Massage Facility licenses are being increased. The proposed fee increase is to cover the cost of the administration and maintenance of the licenses, including fingerprinting and the additional processing required for the on-site manager identification card. These fees are also intended to cover the cost of two inspections a year per massage facility. The areas that support and enforce this ordinance are funded through the general fund budget.

## **OPTIONS & STAFF RECOMMENDATION**

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### **Recommended Approach**

Adopt Ordinance 4023 and update the current Massage Therapists and Massage Facilities Licenses.

### **Description of Option B**

Adopt Ordinance 4023 with modifications or direct staff to revise the ordinance for reconsideration.

### **Description of Option C**

Not adopt Ordinance 4023

**Proposed Next Steps**

If adopted staff will make the necessary changes to processes and systems to administer the ordinance updates by the adoption date.

**RESPONSIBLE DEPARTMENT(S)**

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Police Department

Finance and Accounting

City Attorney's Office

**STAFF CONTACTS (S)**

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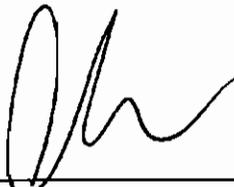
Scott Popp, Commander, [spopp@scottsdaleaz.gov](mailto:spopp@scottsdaleaz.gov)

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Luis Santaella, Sr. Assistant City Attorney, [lsantaella@scottsdaleaz.gov](mailto:lsantaella@scottsdaleaz.gov)

**APPROVED BY**

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Alan Rodbell, Chief of Police

(480)312-1900, [arodbell@scottsdaleaz.gov](mailto:arodbell@scottsdaleaz.gov)

5-16-13

Date



David Smith, City Treasurer

(480)312-2364, [dsmith@scottsdaleaz.gov](mailto:dsmith@scottsdaleaz.gov)

5-20-13

Date



Daniel Worth, Acting City Manager

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5-20-13

Date

## **ATTACHMENTS**

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1. Resolution 9068
2. Ordinance number 4023
3. Public Feedback and Responses
4. Proposed Fee schedule
5. Violations added to proposed update
6. Current text of Proposed Massage Facility update webpage

RESOLUTION NO. 9068

A RESOLUTION OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK OF THE CITY OF SCOTTSDALE AND ENTITLED "AMENDMENTS TO ARTICLE VI, MASSAGE THERAPISTS AND MASSAGE FACILITIES LICENCES, CHAPTER 16 OF THE SCOTTSDALE REVISED CODE."

WHEREAS, State Law permits cities to declare documents a public record for the purpose of incorporation into city ordinances; and

WHEREAS, the City of Scottsdale wishes to incorporate by reference amendments to the provisions regarding Massage Facilities in Chapter 16, Licenses, Taxation and Miscellaneous Business Regulations, of the Scottsdale Revised Code, by first declaring said amendments to be a public record.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. That certain document entitled "Amendments to Article VI, Massage Therapists and Massage Facilities Licenses, Chapter 16 of the Scottsdale Revised Code," attached as Exhibit A, three copies of which are on file in the office of the City Clerk, is hereby declared to be a public record. Said copies are ordered to remain on file with the City Clerk for public use and inspection.

PASSED AND ADOPTED by the City Council of the City of Scottsdale this 4th day of June, 2013.

ATTEST:

CITY OF SCOTTSDALE, an  
Arizona municipal corporation

By: \_\_\_\_\_  
Carolyn Jagger, City Clerk

By: \_\_\_\_\_  
W.J. "Jim" Lane, Mayor

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

  
\_\_\_\_\_  
Bruce Washburn, City Attorney  
By: Kathe Anderson, Assistant City Attorney

**AMENDMENTS TO ARTICLE VI, MASSAGE THERAPISTS AND MASSAGE FACILITIES  
LICENCES, CHAPTER 16 OF THE SCOTTSDALE REVISED CODE**

Section 1. Article VI, Sections 16-201 through 16-210 are revised as follows:

**ARTICLE VI. ~~MASSAGE THERAPISTS AND MASSAGE FACILITIES~~ LICENSES.**

**DIVISION I. GENERAL PROVISIONS.**

**Sec. 16-201. Purpose.**

The purposes of this article are to:

- (1) Enhance the professionalism of the massage service industry, to protect the health and safety of the public, ~~by requiring massage therapists to have thorough knowledge of anatomy and physiology and an understanding of the relationship between the structure and the functions of the tissues being treated;~~ and
- (2) Assure the integrity of the massage service industry by reducing unprofessional practices.

**Sec. 16-202. Definitions.**

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

*Agent* means an individual designated by a publicly traded ~~held~~ corporation to act on behalf of the corporation under this article. An agent shall be a bona fide resident of Arizona and a citizen or legal resident of the United States.

*Applicant* means an individual acting on behalf of a massage facility to apply for a license.

*Client* means an individual who enters into an agreement for massage therapy for a fee, income or compensation of any kind within the city.

*Control* means the power to direct or cause the direction of the management and policies of an applicant, licensee or controlling person, in any way. Control is presumed to exist:

- (1) In a privately-held corporation, if a person has the direct or indirect ownership of or power to vote ten (10) percent 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. To determine the percentage of voting securities owned, controlled or held by a person, there shall be added the voting securities of any other person controlled by (i) that person, or (ii) by an officer, partner, employee or representative of that person or (iii) by a spouse, parent or child of that person.
- (2) In a publicly-held corporation, in an on-site manager who directs the daily operation of the massage facility, and every additional manager at the same location to whom the on-site manager reports, whether or not the on-site manager or additional manager(s) has any ownership interest in the massage facility.
- (23) In a partnership, if the general partner or a limited partner holds ten (10) percent or more of the voting rights of the partnership.

- (4) ~~In a limited liability company, if a member holds ten (10) percent or more of the voting rights of the company.~~
- (35) If a creditor of the applicant, licensee or controlling person holds a beneficial interest in ten (10) percent or more of the liabilities of the applicant, licensee or controlling person.
- (46) In an on-site manager of a massage facility who directs the daily operation of the massage facility, whether or not the on-site manager has any ownership interest in the massage facility.

*Controlling person* means a person directly or indirectly possessing control of an applicant, ~~or licensee or massage facility, and includes an agent and an on-site manager.~~

*Director* means the city ~~financial services customer service~~ director whose responsibilities include ~~licensing and revenue functions, or~~ and the director's successor or designee.

*Employee* means 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, independent contractor or otherwise. 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.

*General manager* ~~means the city general manager of financial services, or the general managers designee.~~

*Massage facility* means any place of business where any massage therapy is practiced or administered.

*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-incident 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; and colon irrigation.

*Massage therapist* means a person who practices or administers any massage therapy for a fee, income or compensation of any kind, within the city.

*Mobile massage unit* means a vehicle or other movable enclosure specifically equipped for a massage therapist to provide massage therapy inside the vehicle or enclosure.

*On-site manager* means a person on the premises of the massage facility who has responsibility for the operations of the massage facility.

*Person* means a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual. It includes a trustee, receiver, an assignee, or similar representative.

**Sec. 16-203. Administration.**

- (a) Except as otherwise specifically provided, the general city manager and the chief of police shall administer and enforce this article.
- (b) License applications under this article shall be submitted to the director, who has the authority to issue, deny, renew, or revoke licenses and identification cards under this article and article I of this chapter.

**Sec. 16-204. Licenses generally; minimum requirements.**

- (a) The licenses required by this article are in addition to any other applicable licenses or permits required by the city, county or state. ~~Persons and massage~~ **Massage** facilities licensed under this article shall comply with all other applicable ordinances and laws, including the city zoning ordinance.
- (b) All licenses issued under this article are non-transferable between persons. However, a licensed massage facility may change locations as provided by this article.
- ~~(c) No more than one (1) massage facility license shall be issued for one street address.~~
- ~~(d) All licenses issued under this article shall be for a period of one (1) year from the issuance date, but may be revoked or renewed under this article.~~
- ~~(e) The director shall have sixty (60) days from the date of the completion of all application materials and requirements to either issue or deny any license or identification card subject to this article. The issuance of any license or identification card shall in no way be construed as a waiver of any right of denial or revocation the city may have at the time of issuance.~~
- (fd) An applicant for a license under this article shall meet the following minimum requirements, to the satisfaction of the director: For this section, the applicant includes all controlling persons of the massage facility.
  - (1) The applicant shall be at least eighteen (18) years old;
  - (2) The applicant shall be a citizen ~~or a legal resident~~ of the United States, ~~and~~ or a non-citizen eligible to work in the United States, and shall provide proof required by A.R.S. §41-1080(a);
  - (3) The applicant shall not, within five (5) years preceding the application date, have been convicted of an offense described in article I of this chapter making an applicant ineligible to reapply for a license for five (5) years;
  - (4) The applicant shall not, within five (5) years preceding the application date, (a) have voluntarily surrendered any license to administer massage therapy to practice as a massage therapist or operate a massage facility as a result of or while under investigation; (b) have had a license to administer massage therapy to practice as a massage therapist or operate a massage facility or similar license denied or revoked by a ~~political subdivision of Arizona or a political subdivision of Arizona~~, or a regulatory board in another United States jurisdiction for an act that occurred in that jurisdiction that would be a violation under this article;
  - (5) The applicant shall not be a registered sex offender or required by law to register as a sex offender; ~~and~~
  - (6) The applicant shall not, within ten (10) years preceding the application date, be convicted of an offense involving sexual misconduct with a child,

including sexual abuse, sexual assault, sexual conduct, sexual molestation and sexual exploitation;

- (7) The applicant shall not, within ten (10) years preceding the application date, be convicted of prostitution or of operating a prostitution enterprise; and
- (68) The applicant's record shall be free of all reasons to deny an application under this article and article I of this chapter.
- (e) The director shall issue a duplicate license to a licensee whose license has been lost, stolen or damaged:
  - (1) At no cost, if the license is emailed to the licensee, or
  - (2) Upon receipt of the fee for a duplicate license, if the license is mailed to the licensee.

### Sec. 16-205. Fingerprinting.

- (a) All Except as provided below, all applicants for licenses or renewal licenses under this article and all applicant's controlling persons and agents shall either:
  - (1) personally appear at the office of the location designated by the director for the purpose of being fingerprinted fingerprinting, or
  - (2) submit one full set of fingerprints.
- (b) If fingerprints are submitted, the fingerprints shall be:
  - (1) Printed on cards acceptable to the agency researching the criminal history;
  - (2) Taken by a municipal, county or state law enforcement agency, or other organization authorized by the city;
  - (3) Dated no more than sixty (60) days before the application date; and
  - (4) Accompanied by a letter from the law enforcement agency or other organization authorized by the city, certifying that the agency or organization took the fingerprints.
- (c) The police department shall ~~conduct a background investigation~~ obtain criminal history based on the fingerprints of the applicant, applicant's controlling persons and agents and shall make a recommendation based on the investigation within the period allowed to the director to issue or deny a license.
- (d) If an applicant, applicant's controlling person or agent has submitted fingerprints for a massage facility license, those fingerprints are valid for ninety (90) days from the application date, if, within those ninety (90) days:
  - (1) The applicant applies for an additional massage facility license; or
  - (2) The applicant renews a license for another massage facility.

## DIVISION 2. MASSAGE FACILITIES LICENSES

### Sec. 16-206. License required; license not required.

- (a) A person desiring to operate the business of a massage facility shall obtain a license under this article.
- (b) A massage facility license is not required for massage facilities:
  - (1) In hospitals and medical facilities licensed by Arizona;
  - (2) In the offices of a physician, chiropractor, naturopathic practitioner, physical therapist, midwife or nurse practitioner licensed by Arizona who is practicing within the scope of that license;

- (3) Where each person practicing massage therapy is acting as a trainer for any bona fide amateur, semi-professional or professional athlete or athletic team;
  - (4) Where each person practicing massage therapy is licensed by the Arizona Board of Barbers or Arizona Board of Cosmetology, and the massage is limited to the head, face, neck, hands and feet;
  - (5) Where each person practicing massage therapy is a student of massage performing clinical practicum at a licensed school of massage therapy, and the student receives no compensation, including tips, or
  - (6) Where each person practicing massage therapy is engaged in specialized weight reduction techniques where touching of the body is incidental to the technique.
- (c) A massage facility license is not required for a mobile massage unit, if the mobile massage unit is parked on private property and the massage therapy is not offered or given to the general public.
  - (d) The director shall not issue a license to any person to operate a mobile massage unit on a city street or other city property. However, the city may authorize a mobile massage unit in conjunction with a special event.

**Sec. 16-207. Fees.**

An applicant and/or licensee shall pay the following fees, as adopted by the city council:

- (1) ~~An applicant shall submit a non-refundable application fee of one hundred dollars (\$100.00) for each license and renewal license under this article.~~
- (2) ~~If a licensee is delinquent in filing for a renewal license under this article, (later than sixty (60) days before the expiration of the license currently in effect), the licensee shall submit a non-refundable late application fee of one hundred eighty dollars (\$180.00), in addition to the non-refundable application fee of one hundred dollars (\$100.00), for each license to be renewed.~~
- (3) ~~At the time the fingerprints are taken, the applicant shall pay the director a fee covering the cost of obtaining criminal history information for each set of fingerprints required under this article.~~
- (4) ~~An annual license fee of two hundred sixty dollars (\$260.00) for each license shall be paid before the license is issued.~~
- (5) ~~A change in location fee of fifty dollars (\$50.00) for a licensed massage facility shall be paid upon filing for approval to change the location of the massage facility.~~
- (6) ~~Upon request and payment of the fee of ten dollars (\$10.00), the director shall issue a duplicate license to a licensee whose license has been lost, stolen or destroyed.~~
- (a) The fees related to massage facilities licenses are:
  - (1) Massage facility initial application fee and late application renewal fee: \$100.
  - (2) Late renewal fee: \$200.
  - (3) Annual massage facility license (new or renewal) fee: \$300.
  - (4) City fingerprinting fee: \$10.
  - (5) State fingerprinting processing fee: as set by the Arizona Department of Public Safety.
  - (6) Substitute on-site manager fee: fingerprinting fees in subsections (a)(5) and (a)(6) above.
  - (7) On-site manager identification card fee: \$10.

- (8) Change of location fee, \$50;
- (9) Duplicate license fee, if mailed, \$10. There is no fee for a duplicate license if sent electronically;
- (b) Payment of all applicable fees is due with the application submission;
- (c) No fees are prorated, transferable or refundable, except as provided by state law.

**Sec. 16-208. License application.**

An applicant shall file an application for a massage facility on a form prescribed by the director containing the information required by this article. An applicant shall provide a list of all employees at the massage facility, including the employee's full name, date of birth, home address and telephone number and employment position; (including a list of which employees are authorized to act as an on-site manager); and the Arizona license number and license expiration date for each massage therapist. An applicant shall provide such other identification and information as the police department may require to aid in verifying the application.

**Sec. 16-209. Information update.**

- (a) An applicant or licensee shall give written notice to the director of any material changes in information submitted in connection with a license application or renewal application for a massage facility, within ten (10) days of any such change. Material changes include, but are not limited to, information regarding:
  - (1) Legal organization of the business;
  - (2) Applicant's, licensee's, agent's, and controlling person's home address, business mailing address and telephone number;
  - (3) Identification of the on-site massage facility manager, including the manager's full legal name, and home address, business mailing address and telephone number;
  - (4) Employee's Applicant's and controlling persons' immigration or authorized work status;
  - (5) Business name of the massage facility; and
  - (6) Requests from the director.
- (b) Any information update submitted under this section shall not remove the responsibility associated with the sale or transfer of a massage facility.

**Sec. 16-210. Massage facility license; special requirements.**

No massage facility license shall be issued or renewed unless the applicant certifies that the site of the proposed or existing facility complies with all of the maintains the massage facility in conformance with the following minimum requirements.

- (1) Minimum lighting requirements shall be provided in accordance with chapter 31 of the city code. In addition, at least one (1) artificial light of not less than forty (40) watts 400 lumens, which is not shaded to significantly decrease luminosity, shall be provided in each room or quarters where massage therapy is performed on clients and shall be in use whenever massage therapy is being performed;
- (2) Minimum ventilation shall conform with chapter 31 of the City Code;
- (3) Adequate equipment shall be provided for disinfecting and sterilizing. All instruments used in administering or practicing any massage therapy shall be sterilized after each use.
- (4) Closed cabinets shall be provided and used for the storage of clean linens. Used linens shall be placed in a closed cabinet or hamper separate from clean linens.

- (5) Except when the client is fully clothed and the massage therapy is administered in a full public view, dressing, locker and toilet facilities, including hot and cold running water, shall be provided for clients as follows: a ~~minimum of one (1) dressing room containing a separate locker for each client, which locker shall be capable of being locked,~~ and a minimum of one (1) toilet and one (1) wash basin. The toilet and wash basin shall be located in the massage facility, or in a public restroom, not used in connection with a commercial business, within one hundred fifty (150) feet of the massage facility. If both male and female clients are to be served simultaneously at the massage facility, however, a separate massage room or rooms, and separate dressing facilities shall be provided for male and female clients;
- (6) All walls, ceilings, floors, pools, showers, bathtubs, hot tubs, steam rooms and all other physical facilities for the massage facility shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use. Among other conditions, evidence of regular cooking, dirty dishes, pots and pans, cooking utensils, food, mattresses or beds used for overnight sleeping, and exposed used or dirty linens in areas used for massage therapy, shall be considered evidence of unclean and unsanitary conditions.
- (7) Clean and sanitary towels shall be provided for each client of the massage facility. Each table used for massage therapy shall be provided with a clean and sanitary towel, paper towel or sheet for each client;
- (8) An on-site manager shall be at the massage facility at all times when massage therapy is being performed.
- (9) The on-site manager shall have, available on request, the city-issued identification card at all times when the on-site manager is on duty at the massage facility.
- (8,10) ~~Compliance~~ The massage facility shall comply with all applicable provisions of the city fire code and zoning ordinance;

Section 2. Section 16-210.1 is added as follows:

**Sec. 16-210.1. On-site manager identification card.**

- (a) A person desiring to be an on-site manager of a massage facility shall obtain an identification card under this article.
- (b) Before the director issues an identification card to an on-site manager, the on-site manager shall meet the following minimum requirements, to the satisfaction of the director:
  - (1) The on-site manager shall be at least eighteen (18) years old;
  - (2) The on-site manager shall be a citizen of the United States or a non-citizen eligible to work in the United States and shall provide proof required by A.R.S. §41-1080(a);
  - (3) The on-site manager shall not, within five (5) years before requesting an identification card, have been convicted of an offense described in article I of this chapter;
  - (4) The on-site manager shall not be a registered sex offender or required by law to register as a sex offender;

- (5) The on-site manager shall not, within ten (10) years before requesting an identification card, be convicted of an offense involving sexual misconduct with a child, including sexual abuse, sexual assault, sexual conduct, sexual molestation and sexual exploitation;
  - (6) The on-site manager shall not, within ten (10) years before requesting an identification card, be convicted of prostitution or of operating a prostitution enterprise;
  - (7) The on-site manager's record shall be free of all reasons to deny an application under this article and article I of this chapter;
- (c) The director shall issue a substitute identification card to an on-site manager whose identification card has been lost, stolen or damaged upon receipt of the fee for a substitute identification card.

Section 3. The title of DIVISION 3, NON-ACCEPTANCE, DENIAL, REVOCATION AND APPEAL OF LICENCES, is revised as follows:

**DIVISION 3. NON-ACCEPTANCE, DENIAL, REVOCATION AND APPEAL OF LICENSES LICENSE PROCEDURES.**

Section 4. Section 16-211 is revised as follows:

**Sec. 16-211. Non-acceptance and denial of application License timeframes.**

- ~~(a) The director shall not accept an application for a license if:~~
  - ~~(1) The application is incomplete;~~
  - ~~(2) The application shows that the applicant or any controlling person has been convicted of a criminal action that would be grounds for denial of the application; or~~
  - ~~(3) The director knows that the applicant or any controlling person has been convicted of a criminal action that would be grounds for denial of the application.~~
- (a) Administrative timeframe: unless the license has already been issued, within fifteen (15) days after receiving a license application under this article, the director will determine whether the application is administratively complete, and notify the applicant as set forth in article I.
- (b) Substantive timeframe: within forty-five (45) days after the director notifies the applicant that the application is administratively complete, the city will complete its substantive review of the license application.
- (c) Overall timeframe: within ninety (90) days after receiving an application under this article, the director will grant or deny a license.
- (d) An application is deemed withdrawn if, within thirty (30) days after the date of a request for additional information during the substantive timeframe, the applicant does not supply the requested information or provide justification for delay. On receipt of justification, the director shall allow the applicant thirty (30) additional days to provide the requested information before deeming the application withdrawn.
- (e) Except as otherwise provided, the timeframes in this section shall be extended and suspended as provided by state law.
- (f) The timeframes in this section are also applicable to license renewal and applications to change locations.

Section 5. Section 16-211.1 is separated from Section 16-211 and revised as follows:

**Sec. 16-211.1. License denial.**

- (a) The director shall deny a license if:
- (1) All requirements for the application have not been completed;
  - (2) The applicant is a corporation which is not qualified to transact business in Arizona;
  - (3) The applicant or the massage facility is delinquent in payment to the city of taxes, fees, fines, or penalties imposed upon the applicant or massage facility or arising out of any other business activity owned or operated by the applicant or the massage facility and licensed by the city;
  - (4) The applicant or the massage facility is in violation of any applicable provisions of ordinances and regulations of the city, including article I of this chapter, relating to the business or occupation to be conducted under the license;
  - (5) The applicant or any controlling person has been convicted of a criminal action that would be grounds for denial of the application;
  - (6) The applicant or any controlling person has an outstanding arrest warrant issued by any jurisdiction within the United States; or
  - (7) Any of the grounds for denial listed in article I of this chapter exist.
- (b) If the grounds for denial apply only to the proposed on-site manager, the applicant may, upon payment of appropriate fees, amend the application to substitute a different on-site manager. The substitute on-site manager is subject to the qualifications for obtaining an identification card.

Section 6. Sections 16-212 through 16-216 are revised as follows:

**Sec. 16-212. Revocation.**

- (a) The director shall ~~revoke a license issued under this article~~ initiate license revocation proceedings if the licensee:
- (1) Fails to maintain the minimum or special requirements for a massage facility under this article;
  - (2) Commits, twice or more, in any consecutive twelve (12) months, any unlawful act designated a class 3 misdemeanor under this article;
  - (3) Commits any unlawful act designated a class 1 misdemeanor under this article;
  - (4) Commits any violation of a provision of article I of this chapter;
  - (5) ~~Permits~~ Fails to prohibit, twice or more, in any consecutive twelve (12) months, any employee ~~to engage~~ from engaging in acts of solicitation or prostitution at the massage facility; or
  - (6) Knowingly permits an employee to engage in acts of solicitation or prostitution at the massage facility; or
  - (7) Meets the grounds for revocation listed in article I of this chapter.
- (b) Revocation procedures shall be as set forth in article I of this chapter.

**Sec. 16-213. Application after non-acceptance, denial or revocation of license.**

- (a) If an application is not accepted because it is incomplete, an applicant may resubmit the application upon completion.
- (b) ~~Except as provided in subsections (c) and (d) below, after~~ After an application has been denied or a license has been revoked, ~~no application shall be accepted for a massage facility with the same business name, or at the same location, for one (1) year after the date of the denial or revocation~~ the limits on reapplication in article I of this chapter shall apply.
- ~~(c) Except as provided in subsection (d) below, after an application has been denied or a license has been revoked, no application shall be accepted for a massage facility or a massage therapist license from the same applicant, or from a controlling person of the applicant, for two (2) years after the date of the denial or revocation.~~
- ~~(d) After an application has been denied or a license has been revoked for the conviction of an offense described in article I of this chapter making an applicant ineligible to reapply for a license for five (5) years from the date of conviction, no application shall be accepted as set forth in article I of this chapter.~~

**Sec. 16-214. Review and appeals.**

Any applicant or licensee aggrieved by a decision to deny or revoke a license or on-site manager identification card under this article, may appeal the decision under the provisions of article I of this chapter.

**DIVISION 4. OPERATIONS AND INSPECTIONS**

**Sec. 16-215. Display of license.**

The massage facility license shall be conspicuously displayed to be readily visible to clients at the massage facility.

**Sec. 16-216. Required logs.**

- (a) Except as provided below, a massage facility licensee shall maintain at the licensed massage facility a current log of all employees at the licensed massage facility, including:
  - (1) Each employee's full legal name, date of birth, home address and telephone number, employment position, date first began service and when terminated service; and
  - (2) Each massage therapist's Arizona license number and date of expiration of license.
- (b) If a massage facility employs more than twenty-five (25) massage therapists, the massage facility licensee shall maintain:
  - (1) A current log of all employees as required in subsection (a) above except that the log may be maintained at a central office or human resources department; and
  - (2) At the licensed massage facility, a current log of all massage therapists employed at the licensed massage facility, including all the information required in subsection (a) above.
- (c) The employee log shall at all times reflect the names of employees for the previous one (1) year. Wherever the employee log is located, the employee log

shall be subject to inspection and copying; upon request, during normal business hours.

- (d) A massage facility licensee shall maintain at the licensed massage facility a log of all massage therapy administered at the facility. The log shall contain the following information: date, time and type of each massage therapy administered, name and address of the client, and name of the employee administering the massage therapy. 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 and copying, upon request, during normal business hours.

Section 7. Sections 16-218 through 16-221 are revised as follows:

## **DIVISION 5. CHANGES TO LICENSES; RENEWAL**

### **Sec. 16-218. Change in location of business.**

- (a) A change in location of a licensed massage facility shall be approved subject to approval by the director before transacting business at the new location. The director shall approve a change in location upon:
  - (1) Completion of an application for change in location of a massage facility;
  - (2) Compliance with this article and all other city ordinances; and
  - (3) Payment of the change in location fee to the director.
- (b) To assure continued operation of the massage facility without an unlawful lapse in the license, a licensee applying for a change in location shall file the application with the director no later than thirty (30) days before the change. If a licensee applies later than thirty (30) days before the change in location, an additional non-refundable late application fee will be charged.
- (c) The timeframes to issue a license apply to applications to change locations of a massage facility.

### **Sec. 16-219. Sale or transfer of massage facility.**

- (a) ~~Upon the~~ A sale or transfer of any controlling person's interest in a licensed massage facility, ~~the license therefor shall be null and void subject to review by the director. A person desiring to continue to operate the massage facility shall file a new application under this article.~~ The director shall approve a sale or transfer of any controlling person's interest in a licensed massage facility upon the police department's satisfactory recommendation regarding any new controlling person's criminal history.
- (b) A licensee seeking the director's approval of a sale or transfer of a licensed massage facility shall submit the fingerprints of any new controlling person no later than sixty (60) days before the sale or transfer. If a licensee applies later than sixty (60) days before the sale or transfer, an additional non-refundable late fee will be charged.

### **Sec. 16-220. License renewal.**

- (a) A licensee applying for license renewal shall:
  - (1) Submit to the director a completed renewal application form and fee for each license being renewed; and

- ~~(2) Provide a list of all employees at the massage facility, including the employee's full name, date of birth, home address and telephone number and employment position; and the license number and license expiration date for each massage therapist;~~
- ~~(32) Comply with the fingerprinting requirements of all other requirements for a license application under this article.~~
- (b) To assure continued operation of the massage facility without an unlawful lapse in the license, a licensee applying for license renewal shall file ~~a renewal an~~ application with the director no later than sixty (60) days before the expiration of the license currently in effect. If a licensee applies for license renewal later than sixty (60) days before the expiration of the license currently in effect, an additional non-refundable late application fee will be charged as set forth in this article.

## DIVISION 6. UNLAWFUL ACTS; PENALTIES

### Sec. 16-221. Unlawful acts; penalties.

- (a) It shall be unlawful for:
  - (1) Any person to operate a massage facility without first obtaining and maintaining the license required by this article.
  - (2) Any person to employ as a massage therapist any person who does not hold a valid massage therapist license as required by ~~this article or~~ the State of Arizona.
  - (3) Any person licensed under this article to operate under any name or conduct business under any designation not specified in such license, or to operate a massage facility under a false or assumed name when the use of such false or assumed name is not otherwise permitted by law.
  - (4) Any person licensed as provided in this article to remain open ~~or administer massage therapy~~ at any time between the hours of 10:00 p.m. and 5:00 a.m. When a massage facility constitutes only a portion of a larger business, not subject by law to operation during specific hours, this limitation shall apply only to that area that is customarily used for administering massage therapy.
  - (5) Any person to operate a massage facility on the same premises where there is also a photography studio, model studio, art studio, telephone answering service, motion picture theater, sexually-oriented business, or a cocktail lounge, except those operated incidental to a hotel, motel or resort.
  - ~~(6) Any person to operate more than one (1) massage facility at the same physical address.~~
  - (76) Any person to fail or refuse to permit a lawful inspection of a massage facility.
  - (87) Any person, except an agent for a publicly ~~traded~~ -held corporation, to fail to disclose all controlling person(s) on an application for massage facility license.
  - (98) An applicant to knowingly file a massage facility ~~or massage therapist license~~ application or supporting document which contains material information which is false.

- (409) Any massage facility licensee to intentionally fail to maintain, retain and produce the logs required by this article. ~~Intent is presumed to exist if the licensee employs any unlicensed massage therapist or has no logs.~~
- ~~(10) Any massage facility to operate without an on-site manager at the premises when massage therapy is being performed.~~
- ~~(11) Any massage facility to permit a person to conduct massage therapy behind a locked door.~~
- ~~(12) Any person to perform massage therapy in a mobile massage unit to the general public while parked or placed on public or private property, except as authorized by the city in conjunction with a special event.~~
- ~~(11)13) Any massage facility licensee to fail to display his or her license as required by this article.~~
- ~~(12) Any massage facility licensee to fail to maintain, retain and produce the logs required by this article.~~
- ~~(13)14) Any licensee to fail to notify the director of any material changes in information submitted in connection with a license application or renewal application.~~
- (b) A violation of subsections (a)(1) through ~~(40)12)~~ above shall be punishable as a class 1 misdemeanor with a minimum mandatory penalty of two hundred dollars (\$200.00) per violation. A violation of subsections (a)~~(11)13)~~ through or ~~(13)14)~~ above shall be punishable as a class 3 misdemeanor. Each day that a violation of this section continues shall constitute a separate offense.
- (c) Any massage facility or business ~~operated~~ operating contrary to this article is unlawful and a public nuisance. The city may, in addition to or in lieu of the remedies under this article, commence one or more actions to abate the massage facility or business and/or to restrain any person from operating a massage facility or business contrary to this article.
- (d) It shall be unlawful for any person in a massage facility or a mobile massage unit to administer massage therapy for a fee, income or compensation of any kind:
  - (1) To a client whose genital organs and anus are not covered by opaque material;
  - (2) While dressed in such a way that the genital organs, buttocks or female breasts are not covered by opaque material;
  - (3) That involves touching, in any way, the client's genital organs or anus, or, without the client's written consent, touching a female breast;
  - (4) That allows any person to intentionally view the genital area of a client that is not related to the massage therapy; or
  - (5) That allows one client to view the massage therapy of another client without the latter's consent.
  - (6) Behind a locked door.
- (e) It shall be unlawful for any person in a massage facility or a mobile massage unit to:
  - (1) Act in a manner or under circumstances intended to arouse, appeal to or gratify sexual desires;
  - (2) Expose the person's or any other person's genital organs, anus or female breast to any other person;
  - (3) Touch in any way any other person's genital organs or anus;
  - (4) Touch in any way the breast of any female, except as authorized by state law;
  - (5) Request, compel, entice or allow any person to touch any other person on the person's genitals, anus or female breast; or

- (6) Urinate, defecate, vomit or spit on any other person, or allow another person to intentionally view the urination, defecation, vomiting or spitting.
- (f) A violation of subsections (d)(1) through (6), and subsections (e)(1) through (6) above shall be punishable as a class 1 misdemeanor, with a minimum mandatory penalty of two hundred dollars (\$200.00) per violation.
- (dg) The revocation of a license does not constitute a defense against prosecution for any act or omission made unlawful by this article.

Section 8. DIVISION 7, MASSAGE THERAPISTS, Sections 16-222 through 16-235 are deleted.

ORDINANCE NO. 4023

AN ORDINANCE OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, REVISING ARTICLE VI, SECTIONS 16-201 THROUGH 16-235, OF CHAPTER 16, LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS, OF THE SCOTTSDALE REVISED CODE, TO REGULATE MASSAGE FACILITIES.

WHEREAS, the City of Scottsdale wishes to amend the Scottsdale Revised Code provisions relating to the regulation of massage facilities; and

WHEREAS, the City Council held a public hearing on June 4, 2013 to consider amendments to Chapter 16 of the Scottsdale Revised Code; and

WHEREAS, that certain document entitled "Amendments to Article VI, Massage Therapists and Massage Facilities Licenses, Chapter 16 of the Scottsdale Revised Code," three copies of which are on file in the office of the City Clerk, was declared to be a public record by Resolution No. 9068.

THEREFORE BE IT ORDAINED by the Council of the City of Scottsdale as follows:

Section 1. An ordinance of the Council of the City of Scottsdale regulating massage facilities, as specified in that certain document entitled "Article VI, Massage Therapists and Massage Facilities Licenses, Chapter 16 of the Scottsdale Revised Code" declared to be a public record by Resolution No. 9068 of the City of Scottsdale, is hereby referred to, adopted in its entirety and made a part hereof as if fully set out in this Ordinance.

Section 2. The penalties for violations of Article VI, Massage Therapists and Massage Facilities Licenses, are in Sec. 16-221. Unlawful acts; penalties:

**Sec. 16-221. Unlawful acts; penalties.**

(a) It shall be unlawful for:

- (1) Any person to operate a massage facility without first obtaining and maintaining the license required by this article.
- (2) Any person to employ as a massage therapist any person who does not hold a valid massage therapist license as required by the State of Arizona.
- (3) Any person licensed under this article to operate under any name or conduct business under any designation not specified in such license, or to operate a massage facility under a false or assumed name when the use of such false or assumed name is not otherwise permitted by law.
- (4) Any person licensed as provided in this article to remain open at any time between the hours of 10:00 p.m. and 5:00 a.m. When a massage facility constitutes only a portion of a larger business, not subject by law to operation during specific hours, this limitation shall apply only to that area that is customarily used for administering massage therapy.

- (5) Any person to operate a massage facility on the same premises where there is also a photography studio, model studio, art studio, telephone answering service, motion picture theater, sexually-oriented business, or a cocktail lounge, except those operated incidental to a hotel, motel or resort.
  - (6) Any person to fail or refuse to permit a lawful inspection of a massage facility.
  - (7) Any person, except an agent for a publicly-held corporation, to fail to disclose all controlling person(s) on an application for massage facility license.
  - (8) An applicant to knowingly file a massage facility application or supporting document which contains material information which is false.
  - (9) Any massage facility licensee to fail to maintain, retain and produce the logs required by this article.
  - (10) Any massage facility to operate without an on-site manager at the premises when massage therapy is being performed.
  - (11) Any massage facility to permit a person to conduct massage therapy behind a locked door.
  - (12) Any person to perform massage therapy in a mobile massage unit to the general public while parked or placed on public or private property, except as authorized by the city in conjunction with a special event.
  - (13) Any massage facility licensee to fail to display his or her license as required by this article.
  - (14) Any licensee to fail to notify the director of any material changes in information submitted in connection with a license application or renewal.
- (b) A violation of subsections (a)(1) through (12) above shall be punishable as a class 1 misdemeanor with a minimum mandatory penalty of two hundred dollars (\$200.00) per violation. A violation of subsections (a)(13) or (14) above shall be punishable as a class 3 misdemeanor. Each day that a violation of this section continues shall constitute a separate offense.
- (c) Any massage facility or business operating contrary to this article is unlawful and a public nuisance. The city may, in addition to or in lieu of the remedies under this article, commence one or more actions to abate the massage facility or business and/or to restrain any person from operating a massage facility or business contrary to this article.
- (d) It shall be unlawful for any person in a massage facility or a mobile massage unit to administer massage therapy for a fee, income or compensation of any kind:
- (1) To a client whose genital organs and anus are not covered by opaque material;
  - (2) While dressed in such a way that the genital organs, buttocks or female breasts are not covered by opaque material;
  - (3) That involves touching, in any way, the client's genital organs or anus, or, without the client's written consent, touching a female breast;
  - (4) That allows any person to intentionally view the genital area of a client that is not related to the massage therapy; or
  - (5) That allows one client to view the massage therapy of another client without the latter's consent.
  - (6) Behind a locked door.

- (e) It shall be unlawful for any person in a massage facility or a mobile massage unit to:
- (1) Act in a manner or under circumstances intended to arouse, appeal to or gratify sexual desires;
  - (2) Expose the person's or any other person's genital organs, anus or female breast to any other person;
  - (3) Touch in any way any other person's genital organs or anus;
  - (4) Touch in any way the breast of any female, except as authorized by state law;
  - (5) Request, compel, entice or allow any person to touch any other person on the person's genitals, anus or female breast; or
  - (6) Urinate, defecate, vomit or spit on any other person, or allow another person to intentionally view the urination, defecation, vomiting or spitting.
- (f) A violation of subsections (d)(1) through (6), and subsections (e)(1) through (6), above shall be punishable as a class 1 misdemeanor with a minimum mandatory penalty of two hundred dollars (\$200.00) per violation.
- (g) The revocation of a license does not constitute a defense against prosecution for any act or omission made unlawful by this article.

Section 3. The effective date of this ordinance is August 1, 2013.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the City Council of the City of Scottsdale this 4<sup>th</sup> day of June, 2013.

ATTEST:

CITY OF SCOTTSDALE, an  
Arizona municipal corporation

\_\_\_\_\_  
Carolyn Jagger, City Clerk

\_\_\_\_\_  
W.J. "Jim" Lane, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Bruce Washburn, City Attorney  
By: Kathe Anderson, Assistant City Attorney

### Massage Comments and Responses

Below are comments received from public outreach, email, mail and phone calls. The working group considered each comment and responded.

Comment	Response
<p>What is the role of the on-site manager?</p> <ul style="list-style-type: none"> <li>• Is the on-site manager an additional employee?</li> <li>• Are the on-site manager rules clear?</li> </ul>	<p>In the past, enforcement has been problematic as employees have disclaimed responsibility for complying with the ordinance. An alleged masseuse would claim she is the receptionist. An on-site manager who would be responsible for compliance will eliminate this avoidance technique.</p> <ul style="list-style-type: none"> <li>• A sole proprietor can be the on-site manager; there is no need to hire an additional person.</li> <li>• Clarification was added that an on-site manager is needed whenever massage is being performed.</li> </ul>
<p>Why are the fees increased?</p>	<p>While some fees are increased, they are offset by decreases that apply to well-managed, legitimate facilities, and lower the long-term cost of doing business. The city fees for the additional on-site manager requirement are \$20.</p>
<p>Is it possible to create categories of facilities, such as those at resorts, independent, chain, etc. and have different rules for each?</p>	<p>Other than objections to the on-site manager requirement, no specific suggestions were offered for how the rules should be different. Basic sanitation, record-keeping and management should not be different from facility to facility. Regulation should be clear and consistent for ease of compliance and enforcement.</p>
<p>Should the definition of Massage Therapist include Aestheticians?</p>	<p>There are a number of situations where a Massage Therapist does not need a Massage Facility license (in a doctor's office, as a student, for example). Additions were made to the ordinance to remove certain holders of Barber and Cosmetology licenses from the Massage Facility license requirement.</p>
<p>Why do the logs of clients have to include the client's address?</p>	<p>The address requirement is proposed to be removed from the existing ordinance.</p>
<p>If a breast cancer client needs a breast massage, shouldn't that be allowed?</p>	<p>The ordinance is modified to permit breast massage by client consent.</p>
<p>Regarding sanitary conditions:</p> <ul style="list-style-type: none"> <li>• If clean linens are separated from used linens, is that sufficient for sanitary purposes?</li> </ul>	<ul style="list-style-type: none"> <li>• Yes. Text has been added to address separate places for clean and used linens.</li> </ul>

<ul style="list-style-type: none"> <li>• Are separate locker rooms really necessary?</li> <li>• How can a Massage Facility that is a suite in a multi-use building keep food odors from the Facility?</li> </ul>	<ul style="list-style-type: none"> <li>• The locker room requirements are proposed to be removed from the existing ordinance.</li> <li>• In a multi-use building, a Massage Facility may not be able to keep food odors away, but evidence of cooking, dirty dishes and lingering odors from cooking in the Facility will be noted during inspections.</li> </ul>
<p>Lighting requirements need to be updated.</p>	<p>Changes were made in proposed language to update the requirement.</p>
<p>Does language used for violations reflect poorly on legitimate operations and does the language conform to State law?</p>	<p>The language in the ordinance is needed so that violators can be prosecuted effectively, and was reviewed for conformance to State law.</p>
<p>Mobile Massage Units should not be exempted from Massage Facility license requirement.</p>	<p>Mobile Massage Units that do not park on public streets or public property are not regulated, as their operation is comparable to out-call massage which is regulated through State Massage Therapists licenses.</p>
<p>Appreciated communication on ordinance changes and the process to update.</p>	<p>Letters, e-mails and web page were used to communicate ordinance updates.</p>
<p>Supportive of City's licensing system.</p>	<p>Ordinance continues current licensing system, adds on-site manager requirement, and updates the ordinance to enhance clarity, and aligns with current city administration and State law.</p>
<p>Supportive of City's goals to control illegal activity.</p>	<p>Updates to ordinance added language to facilitate more effective enforcement.</p>

**PROPOSED FEE CHANGES AND ADDITIONS RELATING TO THE LICENSING OF MASSAGE FACILITIES PURSUANT TO CHAPTER 16, ARTICLE VI OF THE SCOTTSDALE REVISED CODE. THE FEES RELATED TO MASSAGE FACILITY LICENSES ARE:**

<b><u>TYPE</u></b>	<b><u>FEE</u></b>
<b>MASSAGE FACILITY APPLICATION (INITIAL AND LATE RENEWALS)</b>	<b>\$100</b>
<b>ANNUAL MASSAGE FACILITY LICENSE (NEW OR RENEWAL)</b>	<b>\$300</b>
<b>LATE RENEWAL PENALTY</b>	<b>\$200</b>
<b>CITY FINGERPRINTING FEE:</b>	<b>\$10</b>
<b>ON-SITE MANAGER IDENTIFICATION CARD:</b>	<b>\$10</b>
<b>CHANGE OF LOCATION FEE:</b>	<b>\$50</b>
<b>DUPLICATE LICENSE FEE, IF MAILED:</b>	<b>\$10</b>

**PLEASE NOTE:**

**THERE IS ADDITIONALLY A STATE FINGERPRINT PROCESSING FEE THAT IS SET BY THE ARIZONA DEPARTMENT OF PUBLIC SAFETY. CURRENTLY THAT FEE IS \$22 BUT IT IS SUBJECT TO CHANGE.**

**Selected excerpts from Ordinance 4023, Section 16-221, shaded headings indicate violations that were added to proposed ordinance.**

**Sec. 16-221. Unlawful acts; penalties.**

(a) It shall be unlawful for:

**(10)** Any massage facility to operate without an on-site manager at the premises when massage therapy is being performed.

**(11)** Any massage facility to permit a person to conduct massage therapy behind a locked door.

**(12)** Any person to perform massage therapy in a mobile massage unit to the general public while parked or placed on public or private property, except as authorized by the city in conjunction with a special event.

**(d)** It shall be unlawful for any person in a massage facility or a mobile massage unit to administer massage therapy for a fee, income or compensation of any kind:

(1) To a client whose genital organs and anus are not covered by opaque material;

**(2)** While dressed in such a way that the genital organs, buttocks or female breasts are not covered by opaque material;

**(3)** That involves touching, in any way, the client's genital organs or anus, or, without the client's written consent, touching a female breast;

**(4)** That allows any person to intentionally view the genital area of a client that is not related to the massage therapy; or

**(5)** That allows one client to view the massage therapy of another client without the latter's consent.

(6) Behind a locked door.

**(e)** It shall be unlawful for any person in a massage facility or a mobile massage unit to:

(1) Act in a manner or under circumstances intended to arouse, appeal to or gratify sexual desires;

**(2)** Expose the person's or any other person's genital organs, anus or female breast to any other person;

(3) Touch in any way any other person's genital organs or anus;

(4) Touch in any way the breast of any female, except as authorized by state law;

**(5)** Request, compel, entice or allow any person to touch any other person on the person's genitals, anus or female breast; or

**(6)** Urinate, defecate, vomit or spit on any other person, or allow another person to intentionally view the urination, defecation, vomiting or spitting.

Text Only



RESIDENTS BUSINESS VISITORS ONLINE SERVICES JOBS RSS



Home / Codes and Ordinances / Massage Facilities Licenses Ordinance (Proposed)

## Massage Facilities Licenses Ordinance (Proposed)

The City of Scottsdale is updating the Massage Facilities Licenses to allow the city to comply with state law, clarify ordinance language and strengthen the integrity and professionalism of the industry.

### NEW!!!

The Scottsdale City Council will decide whether to adopt the ordinance update at its Tuesday, June 4, meeting. It begins at 5 p.m. in the City Hall Kiva, 3939 N. Drinkwater Blvd. You can access that evening's City Council agenda (which includes details about this item) on [this website](#) closer to the meeting date.

### MOBILE MASSAGE UPDATE:

We would like to provide you with an update on the progress of the proposed Massage Facility ordinance revisions.

After a series of open houses and public outreach, a proposed ordinance update was finalized. That document was scheduled to be presented to the City Council for consideration in the fall of last year. However, just prior to moving forward with that proposal, a business owner brought a unique circumstance to our attention. He operates a "mobile massage unit." Since neither the current ordinance nor the proposed update addressed this type of "facility," due diligence required us to study the issue prior to presenting the update to the City Council.

After discussion and consideration, mobile massage units have been incorporated into the ordinance. Here is how they are specifically addressed:

- A definition was added for mobile massage units:
  - o Mobile massage unit means a vehicle or other movable enclosure specifically equipped for a massage therapist to provide massage therapy inside the vehicle or enclosure.
- In line with other City regulations, mobile massage units will not be allowed to park on public streets or other city property except in special circumstances. This text was added to Sec. 16-206:
  - o (c) A massage facility license is not required for a mobile massage unit, if the mobile massage unit is parked on private property and the massage therapy is not offered or given to the general public.
  - o (d) The director shall not issue a license to any person to operate a mobile massage unit on a city street or other city property. However the city may authorize a mobile massage unit in conjunction with a special event.
- Violations specifically addressing mobile massage units were added, which read, in part as follows: Sec. 16-221 (a) It shall be unlawful for ...
  - o (12) Any person to perform massage therapy in a mobile massage unit to the general public while parked or placed on public or private property, except as

### RELATED LINKS

ZONING ORDINANCE RESOURCES

ACCESSIBLE SCOTTSDALE - ADA RESOURCES

ARCHIVED CITY CLERK DOCUMENTS

BUSINESS LICENSES AND PERMITS

CODES & ORDINANCES

DESIGN, ENGINEERING AND PLANNING GUIDELINES

DOWNTOWN RESOURCES

ESL FACT SHEET

"HOW TO" GUIDES

MAG SUPPLEMENTS

PERMITS/ONE STOP SHOP

PROJECTS (ACTIVE AND PROPOSED)

### ADDITIONAL CODE RESOURCES

CITY CODE

INTERNATIONAL CODE COUNCIL

ICC EVALUATION SERVICE, INC

I-CODE ADOPTION MAP

OSHA

authorized by the city in conjunction with a special event.

Minor streamlining, consistency and clarification changes have been made throughout the document, in part, to respond to state law that went into effect Jan.1. In particular, please see revised section 16-211 regarding timeframes in which to issue licenses.

This summarizes the changes from what we've presented to you in the past. However, please read the proposal in its entirety. Changes from the current ordinance are shown in strike-out and shaded text.

You may view the most recent revisions online at <http://www.scottsdaleaz.gov/codes/massage>. If this new draft raises significant questions or concerns from the massage facility community, which are most efficiently answered in a public forum, we will hold an additional public information session. In the meantime please direct your inquiries to one of us.

**If no major issues are noted, this proposed ordinance will be presented to the City Council this spring.**

Please check the website periodically for specific details.

Thank you for your patience as we move forward!

**ORDINANCE, ADDITIONAL INFORMATION:**

[Current Ordinance](#) 

[Proposed Ordinance](#) (pdf/91kb/16pp)

[Read this Q & A](#) (pdf/61k/1p)

[Additional Information](#)

[Proposed fee schedule](#) (pdf/7kb/1pp)

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