

ARTICLE VI. MESSAGE FACILITIES LICENSES

ARTICLE VI. MESSAGE FACILITIES LICENSES ^[4]

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Editor's note— Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 1), adopted June 4, 2013, amended the title of Art. VI to read as herein set out. Prior to the inclusion of said ordinance, Art. VI was entitled, "Massage Therapists and Massage Facilities Licenses." Section 3 of Ord. No. 4023 further provided for an effective date of August 1, 2013. ([Back](#))

DIVISION 1. GENERAL PROVISIONS

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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, and
- (2) Assure the integrity of the massage service industry by reducing unprofessional practices.

(Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 1), 6-4-13)

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-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.
- (3) 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.

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- (5) 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.
- (6) 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.

Director means the city director whose responsibilities include licensing and revenue functions, 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.

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-incidentally touching such as:

- (1) The manual application of compression, stretch, vibration or mobilization of the organs and tissues beneath the dermis, including the components of the musculoskeletal system, peripheral vessels of the circulatory system and fascia, when applied primarily to parts of the body other than the hands, feet and head.
- (2) The manual application of compression, stretch, vibration or mobilization using the forearms, elbows, knees or feet or handheld mechanical, electrical, water or vibratory devices.
- (3) Any combination of range of motion, directed, assisted or passive movements of the joints.
- (4) Hydrotherapy, including, but not limited to tub, shower or cabinet baths, and the application of water, hot and cold packs or wraps.
- (5) Any other therapeutic application of wraps, oils, alcohol rubs, skin brushing, salt glows and similar applications of products to the skin; 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.

(Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 1), 6-4-13)

Sec. 16-203. Administration.

- (a) Except as otherwise specifically provided, the 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.

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(Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 1), 6-4-13)

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. 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) 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.
- (d) 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 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 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 practice as a massage therapist or operate a massage facility as a result of or while under investigation; (b) have had a license to practice as a massage therapist or operate a massage facility or similar license denied or revoked by 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;
 - (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
 - (8) 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.

(Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 1), 6-4-13)

Sec. 16-205. Fingerprinting.

- (a) 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 location designated by the director for fingerprinting, or (2) submit one (1) full set of fingerprints.

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- (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 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.

(Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 1), 6-4-13)

DIVISION 2. MASSAGE FACILITIES LICENSES

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[Sec. 16-206. License required; license not required.](#)

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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.

(Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 1), 6-4-13)

Sec. 16-207. Fees.

- (a) The fees related to massage facilities licenses are:
 - (1) Massage facility initial application fee and late application renewal fee: One hundred dollars (\$100.00).
 - (2) Late renewal fee: Two hundred dollars (\$200.00).
 - (3) Annual massage facility license (new or renewal) fee: Three hundred dollars (\$300.00).
 - (4) City fingerprinting fee: Ten dollars (\$10.00).

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- (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: Ten dollars (\$10.00).
 - (8) Change of location fee: Fifty dollars (\$50.00).
 - (9) Duplicate license fee, if mailed: Ten dollars (\$10.00). 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.
- (Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 1), 6-4-13)

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.

(Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 1), 6-4-13)

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 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) 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.

(Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 1), 6-4-13)

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

No massage facility license shall be issued or renewed unless the applicant 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, artificial light not less than four hundred (400) lumens, which is not shaded to

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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) 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 and toilet facilities, including hot and cold running water, shall be provided for clients as follows: a dressing room 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.
- (10) The massage facility shall comply with all applicable provisions of the city fire code and zoning ordinance.

(Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 1), 6-4-13)

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;

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- (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.

(Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 2), 6-4-13)

DIVISION 3. LICENSE PROCEDURES ^[5]

[Sec. 16-211. License timeframes.](#)

[Sec. 16-211.1. License denial.](#)

[Sec. 16-212. Revocation.](#)

[Sec. 16-213. Application after non-acceptance, denial or revocation of license.](#)

[Sec. 16-214. Review and appeals.](#)

Sec. 16-211. License timeframes.

- (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.

(Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 4), 6-4-13)

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;

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- (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.
- (Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 5), 6-4-13)

Sec. 16-212. Revocation.

- (a) The director shall 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) Fails to prohibit, twice or more, in any consecutive twelve (12) months, any employee from engaging in acts of solicitation or prostitution at the massage facility;
 - (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.
- (Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 6), 6-4-13)

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) After an application has been denied or a license has been revoked, the limits on reapplication in article I of this chapter shall apply.
- (Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 6), 6-4-13)

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.

(Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 6), 6-4-13)

FOOTNOTE(S):

DIVISION 3. LICENSE PROCEDURES

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Editor's note— Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 3), adopted June 4, 2013, amended the title of Div. 3 to read as herein set out. Prior to the inclusion of said ordinance, Art. VI was entitled, "Non-Acceptance, Denial, Revocation and Appeals of Licenses." ([Back](#))

DIVISION 4. OPERATIONS AND INSPECTIONS

[Sec. 16-215. Display of license.](#)

[Sec. 16-216. Required logs.](#)

[Sec. 16-217. 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.

(Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 6), 6-4-13)

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 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.

(Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 6), 6-4-13)

Sec. 16-217. Inspections.

- (a) Each massage facility, its equipment, logs and methods of operation shall be open to inspection during normal business hours by the police or other city staff designated by the director.
- (b) Each massage facility, within ten (10) days of receiving a written request from the city, shall submit to the police or other city staff designated by the director, a list of massage therapists employed at the massage facility, including the information required in subsection [16-216\(a\)](#).

(Ord. No. 3510, § 1, 6-3-03)

DIVISION 5. CHANGES TO LICENSES; RENEWAL

[Sec. 16-218. Change in location of business.](#)

[Sec. 16-219. Sale or transfer of massage facility.](#)

[Sec. 16-220. License renewal.](#)

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

- (a) A change in location of a licensed massage facility shall be 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.
(Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 7), 6-4-13)

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

- (a) A sale or transfer of any controlling person's interest in a licensed massage facility shall be subject to review by the director. 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.
(Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 7), 6-4-13)

Sec. 16-220. License renewal.

- (a) A licensee applying for license renewal shall:
 - (1) Submit to the director a completed application form and fee for each license being renewed; and
 - (2) Comply with 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 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.
(Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 7), 6-4-13)

DIVISION 6. UNLAWFUL ACTS; PENALTIES

[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

DIVISION 6. UNLAWFUL ACTS; PENALTIES

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 (1) 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.

(Ord. No. 3510, § 1, 6-3-03; Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 7), 6-4-13)

DIVISION 7. RESERVED ⁽⁶⁾

[Secs. 16-222—16-235. Reserved.](#)

Secs. 16-222—16-235. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 4023, § 1(Res. No. 9068, Exh. A, § 8), adopted June 4, 2013, repealed Div. 7, §§ 16-222—16-235, which pertained to massage therapists. See also the Code Comparative Table.

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