

ARTICLE I. IN GENERAL

Secs. 22-1—22-25. Reserved.

ARTICLE II. MASSAGE

DIVISION 1. GENERALLY

Sec. 22-26. Purpose.

The purpose of this article is to establish the city's policies and rules for the operation of massage parlors, massagists, massage schools and similar businesses, and for the issuance, transfer, renewal, revocation and enforcement of licenses to operate massage parlors, massage schools or similar businesses, and to provide an orderly and nondiscriminatory procedure for the review and approval by the city for any and all requests for licenses or any matters relating thereto, including the issuance, transfer, renewal, revocation and enforcement of such licenses.
(Ord. No. 502, § 2, 7-30-91)

Sec. 22-27. 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:

Massage means a method of treating external parts of the body for remedial or hygienic purposes, consisting of rubbing, stroking, kneading, adjusting or tapping with the hand or any instrument, electric, magnetic or otherwise, with or without supplementary aids.

Massage parlor means any Turkish bath, steam bath, sauna bath, magnetic healing institute, or any room, place, establishment or institution where treatment of any nature for the human body is given by means of massage and where a massage, alcohol rub, fomentation, bath, physiotherapy, manipulation of the body or similar treatment is given.

Massage school means a school which is recognized by the state board of massage, which requires for admission students with a tenth grade education or its equivalent, which employs one or

more competent licensed massagists as instructors and which has minimum requirements or a continuous course of study and training and consisting of study in physiology, anatomy, massage theory, hydrotherapy, hygiene, ethics and practical massage. For the purposes of this article, a correspondence school shall not be construed to be a recognized school.

Massagist means any person, male or female, who administers to another person, for any form of consideration, a massage, alcohol rub, fomentation, bath, electric or magnetic massage procedure, manipulation of the body or other similar procedure.

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

(Ord. No. 502, § 3, 7-30-91)

Cross reference—Definitions generally, § 1-2.

Sec. 22-28. Inspections.

(a) Every establishment ostensibly being operated as a massage parlor or massage school shall be open for inspection by duly authorized representatives of any city department concerned with the licensing and supervision of such establishment during operating hours for the purpose of enforcing any of the provisions of this chapter or other ordinances or regulations of the city relating to the public health, safety and welfare.

(b) It shall be unlawful for any person to refuse entry by city representatives to premises in which a massage parlor or massage school is ostensibly being operated for the purpose of making lawful inspections.

(Ord. No. 502, § 4, 7-30-91)

Sec. 22-29. Unlawful activities.

It shall be unlawful for any person to massage any other person, or give or administer any bath, or to give or administer any of the other things mentioned in this article for illegal purposes. It shall be unlawful for any person, for monetary gain or profit, to have any contact with a person's breasts, genital area or buttocks in a manner intended to arouse, appeal to or gratify a person's

lust, passions or sexual desire. Any violation of this section shall be deemed grounds for revocation of the license.

(Ord. No. 502, § 5, 7-30-91)

Sec. 22-30. Massagists' wearing apparel.

Uniforms or garments covering the torso shall be worn by massagists or employees while attending patrons. Such uniforms or garments shall be of washable material and shall be kept in a clean condition. The sleeves of the uniform or garment shall not reach below the elbow.

(Ord. No. 502, § 6, 7-30-91)

Sec. 22-31. Patronage by minors.

No person licensed as a massagist shall massage or treat any person under the age of 17 upon the licensed premises, except upon written order by a licensed medical doctor, doctor of osteopathic medicine or physical therapist. Such order shall be dated and in the possession of the massagist giving the massage or treatment. If the person under the age of 17 is accompanied by a parent or legal guardian during the massage or treatment, this section shall not apply.

(Ord. No. 502, § 7, 7-30-91)

Sec. 22-32. Advertising.

No massage parlor, massage school or similar business or massagist granted a license under this article shall place, publish or distribute, or cause to be placed, published or distributed, any advertisement, picture or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any massage services.

(Ord. No. 502, § 8, 7-30-91)

Sec. 22-33. Hours of operation.

No massage parlor or massage school shall be open to the public for business between the hours of 12:00 midnight and 10:00 a.m.

(Ord. No. 502, § 9, 7-30-91)

Sec. 22-34. Exemptions.

This article shall not apply to:

- (1) Medical doctors, doctors of osteopathic medicine, doctors of chiropractic medicine, occupational therapists and their duly authorized assistants, physical therapists and their duly authorized assistants, psychiatrists, psychologists, clinical social workers and family counselors who are licensed to practice their respective professions in the state, or who are permitted to practice temporarily under the auspices of an association or establishment duly licensed in the state, certified members of the American Massage and Therapy Association, and certified members of the International Myomassethics Federation;
- (2) Nurses who are registered under the laws of this state and who administer a massage in the normal course of nursing duties;
- (3) A trainer of any duly constituted athletic team who administers a massage in the normal course of training duties;
- (4) Barbers and beauticians who are duly licensed under the laws of this state and who administer a massage in the normal course of their duties;
- (5) Participants in growth seminars or sensitivity sessions, provided such seminars or sessions are conducted by a member of one of the exempted professions defined in subsection (1) of this section; and
- (6) Any duly licensed establishment in which the above-described persons only and exclusively practice their respective professions.
- (7) Athletic clubs, health clubs, gyms and other similar establishments in which massages are performed but are not the primary and/or principal use of the establishment.

(Ord. No. 502, § 10, 7-30-91; Ord. No. 575, § 1, 6-5-95)

Secs. 22-35—22-45. Reserved.

DIVISION 2. LICENSE

Sec. 22-46. Required.

No person shall practice, engage in, carry on or operate the business of a massagist or conduct, operate and carry on a massage parlor, massage school or similar business within the city without

first having applied for and obtained the required license and complying with all requirements of this article. No persons shall employ as a massagist any person who does not hold a current unrevoked license as required by this article. No person shall practice massage for compensation without obtaining and maintaining in effect a license as a massagist as required by this article. (Ord. No. 502, § 11, 7-30-91)

Sec. 22-47. Duties of owner, operator, manager or licensee regarding employees' licenses.

It shall be the responsibility of an owner, operator, manager or licensee in charge of or in control of a massage parlor, massage school or similar business to ensure that each person employed or engaged as a massagist in such business shall have first obtained a valid massagist license as required by this article. Any owner, operator, manager or licensee in charge of or in control of a massage parlor, massage school or similar business, who employs a person performing as a massagist, who is not in possession of a valid massagist license, or allows such an employee to perform, operate or practice within a massage parlor, shall be in violation of this article. (Ord. No. 502, § 12, 7-30-91)

Sec. 22-48. Investigation fee.

(a) Any person desiring to obtain a license to operate a massage parlor, massage school or similar business or to perform massage services shall make application to the city clerk. The city clerk shall refer all such applications to the public safety director for an investigation. An application to obtain a license to operate a massage parlor, massage school or similar business shall be accompanied by an investigation fee in an amount established by resolution of the city council. No part of such fee will be refundable.

(b) Each applicant for a license to allow an individual to perform massage services shall be accompanied by an investigation fee in an amount established by resolution of the city council. No part of such fee is refundable.

(c) This application fee shall be payable to the city treasurer at the time the application is filed and shall be in addition to any other license, permit or fee required under this article or any other city ordinances. (Ord. No. 502, § 13, 7-30-91)

Sec. 22-49. Application; contents.

(a) Any applicant for licenses required in this article shall submit the following information:

- (1) The full name and present address of the applicant.
- (2) The two previous addresses immediately prior to the present address of the applicant and dates of such residence.
- (3) A description of service to be provided.
- (4) The location and mailing address of the proposed establishment.
- (5) If applicant is a corporation, the names and residence addresses of each of the officers and directors of the corporation, and of each stockholder owning more than ten percent of the corporation.
- (6) If the applicant is a partnership, the names and residence addresses of each of the partners, including limited partners.
- (7) Written proof (birth certificate or sworn affidavits) that the applicant is at least 18 years of age.
- (8) Individual applicant's height, weight, sex, color of eyes and hair.
- (9) One portrait photograph of at least two inches by two inches and a complete set of the applicant's fingerprints, which shall be taken by the public safety director or his agent.
- (10) Business, occupation or employment of the applicant for the three years immediately preceding the date of the application.
- (11) A certificate from a medical or osteopathic doctor stating that the applicant has, within 30 days immediately prior thereto, been examined and found to be free of any contagious or communicable disease.

- (12) The history of an applicant in the operation of a massage parlor or similar business or occupation, including, but not limited to, whether or not such person has previously operated in this city or another municipality or state under license, has had such license revoked or suspended and the reason therefor, and the business activity or occupation subsequent to such action or suspension or revocation.
- (13) All criminal convictions other than traffic violations and the reasons therefor.
- (14) Such other identification and information necessary to discover the truth of the matters required to be set forth in the application.

(b) The following additional information shall be contained in an application for a license to conduct a massage parlor: The number of employees and names and qualifications of all persons who are intended to give massages in the proposed parlor.

(c) The application shall be signed and sworn to by the applicant.
(Ord. No. 502, § 14, 7-30-91)

Sec. 22-50. Review; investigation; inspection of premises; issuance of denial; appeals.

(a) Any applicant for a license under this article shall present to the city clerk the application containing the required information. The application shall be referred to the public safety director, who shall have a reasonable time in which to investigate the application and the background of the applicant. Based on such investigation, the public safety director or the director's representative shall render a recommendation to the city clerk as to the approval or denial of the license.

(b) The public safety director shall recommend denial of an application for a license if the character, reputation, moral integrity or physical or mental condition of the applicant or his employees is found to be detrimental to the public health, safety, morals or general welfare. The public safety director's recommendation shall be based on appropriate and competent evidence available to the

director. In making such a determination, the director shall consider:

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

(c) The building department, fire department and the county health officer shall inspect the premises proposed to be devoted to the massage parlor, massage school or similar business. Following such inspection, the building department shall, if the premises comply with the requirements of this article and all other applicable city laws, issue a certificate of occupancy for the premises.

(d) The city clerk, or his designee, upon issuance of the certificate of occupancy, shall grant a license to the establishment if all requirements for a massage parlor, massage school or similar business are met, and shall issue a license to all persons who have applied to perform massage services unless it appears that any person has deliberately falsified the application or unless it appears that the record of any person reveals a conviction of a felony or a crime of moral turpitude.

(e) Any person denied a license by the city clerk or his designee pursuant to this article may appeal to the city council in writing, stating reasons why the license should be granted. The city council may grant or deny the license after a public hearing and such decision shall be final. Also, the city council may elect on its own motion to review any determination of the city clerk granting or denying a license.

(f) All licenses are nontransferable and pertain only to the location listed in the license application described in this section; provided, however, a change of location of a massage parlor or similar

business may be permitted pursuant to the provisions of this article.

(Ord. No. 502, § 15, 7-30-91)

Sec. 22-51. Minimum requirements for facilities.

No license to conduct a massage parlor, massage school or similar business shall be issued unless an inspection by the city reveals that the establishment complies with each of the following minimum requirements:

- (1) A recognizable and readable sign shall be posted at the main entrance identifying the establishment as a massage parlor or massage school; all such signs shall comply with the sign requirements of the city.
- (2) Minimum lighting shall be provided in accordance with the city building and electrical codes.
- (3) Minimum ventilation shall be provided in accordance with the city building code.
- (4) Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided.
- (5) Hot and cold running water shall be provided at all times.
- (6) Closed cabinets shall be provided, which shall be utilized for the storage of clean linen.
- (7) Adequate bathing, dressing, locker and toilet facilities shall be provided for patrons. A minimum of one tub or shower, one dressing room containing a separate locker with lock for each patron to be served, as well as a minimum of one toilet and one washbasin shall be provided by every massage parlor; provided, however, that if male and female patrons are to be served simultaneously at the establishment, separate bathing, a separate massage room or rooms, separate dressing and separate toilet facilities shall be provided for male and female patrons.
- (8) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other phys-

ical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and/or showers shall be thoroughly cleaned after each use.

- (9) Clean and sanitary towels and linens shall be provided for each patron of the establishment. No common use of towels or linens shall be permitted.
- (10) A minimum of one separate washbasin shall be provided in each massage parlor for the use of employees of any such establishment. The basin shall provide soap or detergent and hot and cold running water at all times and shall be located within or as close as practical to the area devoted to the performing of massage services. In addition, there shall be provided at each washbasin sanitary towels placed in permanently installed dispensers.
- (11) No massage shall be performed in a massage parlor or a massage school in a private room which is completely closed to the view of other persons; however, reasonable measures may be used to offer privacy to patrons such as partitions, stalls, curtains and the like.

(Ord. No. 502, § 16, 7-30-91)

Sec. 22-52. Fee; term.

Any person granted a license by the city clerk or the city council to operate a massage parlor, massage school or similar business, or to administer massages, shall pay to the city treasurer an annual fee in an amount as established by resolution of the city council. The license year shall be the period from the date of license issuance to the next December 31, inclusive, unless otherwise provided. All licenses issued for the license year shall expire on December 31, unless suspended or revoked.

(Ord. No. 502, § 17, 7-30-91)

Sec. 22-53. Renewal.

The license to operate a massage parlor, massage school or similar business, as well as massagist's license, shall be renewed at least 15 days prior to the date of expiration. The license shall be renewed if the applicant submits a sworn affidavit that the matters contained in the original application are correct and indicates any changes necessary. In addition to the affidavit, a signed statement from a doctor stating that the applicant for a massagist's license has been examined within the preceding 90 days and found to be free from any contagious or communicable disease which is likely to be communicated during the administration of a massage.

(Ord. No. 502, § 18, 7-30-91)

Sec. 22-54. Display.

Every person to whom or for which a license shall have been granted under this article shall display the license in a conspicuous place so that it may be readily seen by persons entering the premises where the massage, bath or treatment is given.

(Ord. No. 502, § 19, 7-30-91)

Sec. 22-55. Licensee's responsibility for employees.

It shall be the responsibility of the holder of the license of the massage parlor, or the employer of any person purporting to act as a massagist, to ensure that each person employed as a massagist shall first have obtained a valid license pursuant to the provisions of this article. All other employees who work closely with the massage activities shall provide annually the medical certificate required under section 22-49(a)(11).

(Ord. No. 502, § 20, 7-30-91)

Sec. 22-56. Emergency employees.

If the holder of a license to operate a massage parlor is required to use an emergency employee because of the illness or incapacity of a regular licensed employee, the same shall be permitted, provided that such emergency employee shall be required to make application for a valid license as required in this article within three days from the date of beginning work. The term "emergency

employee" shall be defined to mean an individual who possesses a valid medical certificate per section 22-49(a)(11) and works not more than three days per year in the city and does not possess a valid city license.

(Ord. No. 502, § 21, 7-30-91)

Sec. 22-57. Operation under names specified.

No person licensed under this article shall operate under any name or conduct his business under any designation not specified in the license.

(Ord. No. 502, § 22, 7-30-91)

Sec. 22-58. Revocation and suspension procedure.

No license under this article shall be revoked until after a hearing before the city council to determine just cause for such revocation. The city clerk or his designee may order any license suspended pending such hearing. It shall be unlawful for any person to carry on the business of a massagist or to operate as a massage parlor, massage school or similar business, depending upon the particular type of license which has been suspended, until the suspended license has been reinstated by the city council. Notice of such hearing shall be given in writing and served at least five days prior to the date of the hearing. The notice shall state the ground of the complaint against the holder of the license or against the business carried on by the licensee at the establishment and shall state the time of the hearing and the place where the hearing will be held. The notice shall be served upon the licensee by delivering it to the person or by leaving the notice at the place of business or residence of the licensee in the custody of a person of suitable age and discretion. If the licensee cannot be found and the service of the notice cannot be made in this manner, a copy of the notice shall be mailed, postage fully prepaid, addressed to the licensee at his place of business or residence and posted conspicuously on the premises at least five days prior to the date of the hearing.

(Ord. No. 502, § 23, 7-30-91)

Sec. 22-59. Sale; transfer; expansion of business.

Upon the sale or transfer of any interest in a massage parlor, massage school or similar busi-

ness, the license shall be null and void. A new application shall be made by any person desiring to own or operate the massage parlor, massage school or similar business. The provisions of division 2 shall apply to any person applying for a massage establishment license for premises previously used as such an establishment. Any sale or transfer of any interest in an existing massage establishment or any application for an extension or expansion of the building or other place of business of the massage establishment shall require inspection and shall require compliance with this article. A fee in an amount as established by resolution of the city council shall be payable for each application involving extension or expansion of the building or other place of business of the massage establishment.

(Ord. No. 502, § 24, 7-30-91)

Secs. 22-60–22-80. Reserved.

ARTICLE III. PEDDLERS, SOLICITORS AND CONCESSIONAIRES

DIVISION 1. GENERALLY

Sec. 22-81. 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:

Concessionaire means a person who offers merchandise or services for sale or rent, or who takes or attempts to take orders for merchandise or services, at intermittent times or varying locations, while not moving from place to place.

Frozen confection means ice cream, ice, popsicles, ice cream bars, frozen candy, frozen dairy products and all other ice cream or other frozen sugar items with the exception of soft ice cream which shall not be sold.

Frozen confection vendor means any person who sells, offers for sale or assists in the sale of any frozen confection from a motor vehicle as motor vehicle is defined in the state motor vehicle code.

Peddler means a person who offers merchandise or services for sale or rent while moving from place to place.

Prepared food means a food product that has been prepared, processed, cooked and/or packaged for and/or by a prepared food vendor for reasonably immediate consumption by those persons who purchase the prepared food items from the prepared food vendor.

Prepared food vendor means any person who sells, offers for sale or assists in the sale of any prepared foods as defined in this section from a motor vehicle as motor vehicle is defined in the Michigan Vehicle Code.

Solicitor means a person who takes or attempts to take orders for merchandise while moving from place to place.

(Ord. No. 445, § 1, 8-1-88; Ord. No. 549, § 1, 10-18-93)

Cross reference—Definitions generally, § 1-2.

Sec. 22-82. Rules and regulations.

(a) All licensees under this article shall comply with the regulations contained in subsection (b) of this section.

(b) No licensee shall:

- (1) Sell or offer for sale any unsound or unripe or unwholesome food or defective, faulty, incomplete, or deteriorated merchandise.
- (2) At any time in the conduct of the licensed business, obstruct any street, alley, sidewalk, or driveway.
- (3) Remain in front of, or at the side of, any property against the wish or desire of the property owner or the tenant or occupant of such property.
- (4) Engage in the licensed business within 500 feet of the entrance of any school building between the hours of 9:00 a.m. and 5:00 p.m. on the days when school is in session.
- (5) Engage in the licensed business on those portions of streets on which a public park abuts.

- (6) Stop his vehicle for the purpose of engaging in a licensed business within 50 feet of any street intersection in the city.
- (7) Fail to comply with all provisions of the traffic ordinances of the city.
- (8) Not remain standing at any one place on any of the streets, alleys, or public places in the city for a longer period of time than five minutes while engaging in the licensed business.
- (9) Remain upon premises owned by another person for a longer period of time than five minutes while engaging in the licensed business without first having obtained a letter determination from the city building department that the conduct of the licensed business is a permitted use on the subject property under the city zoning ordinance.

(c) The city council may from time to time adopt such additional reasonable rules and regulations, not inconsistent with this article, as may be necessary to regulate and govern the peddlers, solicitors, concessionaires or vendors of any foodstuffs intended for human consumption on the streets, sidewalks or public places in the city.

(Ord. No. 445, § 10, 8-1-88; Ord. No. 549, § 6, 10-18-93)

Sec. 22-83. Articles prohibited or restricted.

(a) No peddler, concessionaire, solicitor or vendor, whether licensed or not under this article, shall peddle or sell any meat or any meat products of any kind and/or poultry or fresh, cured or smoked fish of any kind, except that prepared food vendors may engage in the sale of prepared foods as provided for in this article.

(b) The peddling, selling, vending or giving away of wrapped frozen ice cream bars, frozen ice known as popsicles, other types of ice cream and/or frozen confection products from pushcarts or bicycles is prohibited as a necessary police measure for the prevention of traffic accidents and personal injuries in the streets of the city. The peddling, selling and/or vending of wrapped frozen ice cream bars, frozen ice known as popsicles, other types of ice cream and frozen confection products

shall be in accordance with the regulations of this article.

(Ord. No. 549, § 7, 10-18-93)

Sec. 22-84. Inspection of food articles; frozen confection sales.

(a) The sale of fruits, vegetables, perishable foodstuffs, prepared foods and/or frozen confection products shall be subject to inspection by the county health department.

(b) Frozen confection products and prepared foods shall be sold only from properly working and operating refrigerated trucks of modern design approved by the county health department and the city.

(Ord. No. 549, § 8, 10-18-93)

Sec. 22-85. Sales to minors; warning lights required on vehicle.

No person peddling, selling or vending frozen confection products from vehicles shall make sales to minors under the age of 16 years unless there is displayed on the vehicle properly operating vehicle flashing warning lights visible from the front and rear and from each side of the vehicle which, under normal atmospheric conditions, are visible from a distance of 500 feet unless such vehicle is stopped in a legal parking location not closer than 100 feet to the nearest intersecting street.

(Ord. No. 549, § 9, 10-18-93)

Sec. 22-86. Weights and measures; use.

No licensee shall sell or deliver any merchandise which is ordinarily sold by weight or measure by the use of any other than standard weight or measure.

(Ord. No. 445, § 14, 8-1-88)

Sec. 22-87. Obstructing traffic.

No licensee shall stand or be on any public street, alley, or public place, or in any building or place of business abutting on any street, alley, or public place, and attract persons or induce persons to congregate on any public sidewalk, street, alley, or public place so as to tend to obstruct traffic, whether pedestrian or vehicular.

(Ord. No. 445, § 15, 8-1-88)