

CHAPTER V. BUSINESS REGULATIONS

Article 1. General Regulations and Licenses

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Modeling and Body Painting Studios

ARTICLE 1. GENERAL PROVISIONS

- 5-101. **LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation, either as principal or agent or employee, to conduct, pursue, carry on or operate any auction sales, carnivals, circuses, street exhibitions or theatricals in the city without first paying the license fee prescribed and procuring such a license from the city clerk. (Code 2005)
- 5-102. **APPLICATION FOR LICENSE.** Every person, firm or corporation desiring to do business in the city shall apply to the city clerk for a license to operate such business, and in the case of new licenses, shall appear before the governing body before the commencement of business and issuance of the license. Upon approval by the governing body, the city clerk shall issue to the applicant a license which shall be signed by the city clerk. It shall be the duty of the city clerk to pay over the amount so collected on each license issued, to the city treasurer of the city. (Code 1993)
- 5-103. **NOT ASSIGNABLE OR TRANSFERABLE.** No license granted by the city shall be assignable or transferable; nor shall such license authorize any person to do business or act under it but the person named therein, nor at more than one place. There shall be no refunds except as specifically provided. (Code 1993)
- 5-104. **LICENSE PERIOD; DURATION.** Unless otherwise provided, licenses shall commence and endure from January 1 and expire on December 31 of the same year, except that all semi-annual licenses issued as provided in this chapter shall expire on the 30th day of June or the 31st day of December, next following the date of their issuance. (Code 1993)
- 5-105. **EXEMPTION OF FARMERS.** No producer or grower, or his or her agents or employees, selling in the city, farm or garden products or fruits grown by him or her in the state shall be required to pay any license fee or occupation tax imposed by any law of this city, and he or she, his or her agents or employees, are hereby exempt from the payment of any such fees or taxes, or the securing of a license. (K.S.A. 12-1617; Code 1993)

5-106. LICENSE FEES. (a) Unless otherwise provided, license fee for each occupation, business, or profession shall be as shown in the following schedule:

(1) Auction Sales. All auction sales of a stock or part of a stock of goods, wares or merchandise - \$25 per day. This section shall not apply to household goods and household furniture sold at auction by the owner thereof, where such goods and furniture have been in actual use by the owner or owners of household furnishings and are sold in good faith to close out the same. This section shall not apply to goods, wares or merchandise which are being disposed of by process of law.

(2) Carnivals. All carnivals - \$5 per day.

(3) Circuses. All circuses, menageries, and parades - \$15 per day.

(4) Street Exhibitions. Any street exhibition, including street fairs and public shows - \$5 per day.

(5) Theatricals. All theatrical performances - \$10 per day.

(b) The fees as set out in subsection (a) shall not apply to any event sponsored by the citizens or any religious, educational, charitable, social or fraternal organization of the city.

(Ord. 171; Code 1993)

5-107. SAME; WHEN PAYABLE; TIME PERIOD. (a) All license fees shall be due and payable before the commencement of a trade, occupation, business or profession for which license fees are required.

(b) No license shall be issued until the fee is paid.

(c) Licenses shall be renewed on or before the expiration date of the current licenses.

(d) If the license prescribed is for an annual, quarterly, monthly, weekly or daily period, the license shall not be issued for any part or fraction of the year, quarter, month, week or day, respectively.

(e) The license for a day shall expire at midnight.

(Code 1993)

5-108. PAYMENT OF FEES; RECEIPT. The city clerk shall, upon payment of any license fee specified, give a receipt therefor stating the amount paid, the nature of the licenses issued, for what time, and to whom issued, and if possible, the exact location where the business is to be carried on, and the kind of business. (Code 1993)

5-109. CONTENTS OF LICENSE. Unless otherwise provided all licenses shall be dated on the date of their issue, and shall state the name of the licensee, the kind of business he or she desires to engage in and the location thereof, the amount paid, and time the license shall expire; and the person having such license shall be authorized to carry on the business therein named. (Code 1993)

5-110. RECORD BOOK. The city clerk shall keep a book in which shall be entered the name of each person licensed, his or her address, the date of the license, the purpose for which it is granted, the amount paid therefor, and the time the same shall expire and within 24 hours after any license has expired, the city clerk shall notify the chief of police of such expiration, unless the same shall have been renewed. (Code 1993)

5-111. DISPLAY OF LICENSE. All persons doing business in a permanent location are required to have their license conspicuously displayed in their place of business, and all persons to whom licenses are issued not having a permanent place of business are required to carry their licenses with them and any licensee shall present the license for inspection when requested to do so by any citizen or officer of the city. (Code 1993)

5-112-117. RESERVED; FOR FUTURE USE.

ARTICLE 2. SOLICITORS, CANVASSERS, PEDDLERS

5-201. DEFINITIONS. For the purpose of this article, the following words shall be considered to have the following meanings:

(a) Soliciting shall mean and include any one or more of the following activities:

(1) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services, of any kind, character or description whatever, for any kind of consideration whatever; or

(2) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or

(3) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

(b) Residence shall mean and include every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

(c) Canvasser or Solicitor shall mean any individual, whether resident of the city or not, whose business is mainly or principally carried on by traveling either by foot, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales or not. Such definition shall include any person, who, for himself, herself or for another person, hires, leases, uses, or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.

(d) Peddler shall mean any person, whether a resident of the city or not, traveling by foot, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad boxcar or other vehicle or conveyance, and further provided, that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this article shall be deemed a peddler.

(e) Transient merchant, itinerant merchant or itinerant vendor are defined as any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within such city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building,

structure, motor vehicle, tent, railroad boxcar, or boat, public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. Such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

(f) Street salesman shall mean any person engaged in any manner in selling merchandise of any kind from a vehicle or stand temporarily located on the public streets or sidewalks of this city.
(Code 1993)

5-202. LICENSE REQUIRED. (a) It shall be unlawful for any person to engage in any of the activities defined in the preceding sections of this article, within the corporate limits of the city without then having an unrevoked and unexpired license therefor in his or her possession and issued by the city clerk.

(b) The governing body may waive the license requirements of this section for any person, firm or corporation exempt from the payment of a license fee under section 5-207(d).
(Code 1993)

5-203. SAME; APPLICATION REQUIRED. Before the city clerk may issue any license required by this article, he or she shall require a sworn application in writing prepared in duplicate on a form to be supplied by the city clerk which shall give the following information:

- (a) Name and description of applicant;
- (b) Permanent home address and full local address of applicant;
- (c) Identification of applicant including drivers license number, date of birth, expiration date of license and description of applicant;
- (d) Identification of vehicle used by applicant including license therefor used by applicant in conducting his or her business;
- (e) A brief description of the nature of the business to be carried on or the goods to be sold and the length of time such applicant has been engaged in the business;

(f) If employed, the name and address of the employer, together with credentials establishing such relationship, including the authority by the employer authorizing the applicant to represent the employer in conducting business;

- (g) The length of time which business is proposed to be carried on;

(h) The place where services are to be performed or where the goods or property proposed to be sold or orders taken for the sale thereof are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;

(i) A photograph of the applicant, taken within 90 days prior to the date of making application which picture shall be at least two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner; or in lieu thereof, the fingerprints of the applicant may be taken by the chief of police and filed with the application;

(j) A statement as to whether or not the applicant has within two years prior to the date of the application been convicted of any crime, misdemeanor (other than minor traffic violations) or violation of any municipal law regulating peddlers, solicitors or canvassers and giving the nature of the offenses, the punishment assessed therefor, if any, and the city and state where conviction occurred.

(k) The applicant's Kansas Sales Tax number.
(Code 1993)

5-204. ISSUANCE; COUNTY RESIDENTS. (a) Except as provided in section 5-209, if the applicant is a current resident of Osage County, Kansas, upon receipt of an application for a license and payment of the license fee, the city clerk shall issue the license. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the date of issuance and length of time the license shall be operative, and the nature of the business involved. The city clerk shall keep a permanent record of all such licenses issued and submit a copy of such license to the chief of police. The licensee shall carry the license certificate at all times.

(b) If the applicant is not a current resident of Osage County, Kansas, a license will not be issued until after investigation and payment of the investigation fee as provided in sections 5-205:206.
(Code 1993)

5-205. SAME; INVESTIGATION AND ISSUANCE; NON-COUNTY RESIDENT.
(a) Upon receipt of the above application from an applicant who is not a current resident of Osage County, Kansas, the city clerk shall refer the same to the chief of police who shall cause an investigation of the fact stated therein to be made within not to exceed five days.

(b) If as a result of the investigation, the applicant's character or business responsibility is found to be unsatisfactory or the facts stated therein to be untrue, the chief of police shall endorse on such application his or her findings and endorse his or her disapproval of the application and the reasons for the same and shall return the application to the city clerk who then shall notify the applicant that his or her application is disapproved and that no license will be issued.

(c) If however, the investigation of such application discloses that the character and business responsibility and the facts stated in the application are satisfactory and true, the chief of police shall endorse his or her findings and approval on the application and return the same to the city clerk who shall, upon payment of the license and investigation fees prescribed, issue a license to the applicant to engage in the business described in the application. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the date of issuance and length of time the license shall be operative, and the nature of the business involved. The city clerk shall keep a permanent record of all such licenses issued and submit a copy of such license to the chief of police. The licensee shall carry the license certificate at all times. (Code 1993)

5-206. SAME; INVESTIGATION FEE. At the time of filing the application, a fee of \$40 shall be paid to the city clerk to cover the cost of investigation of the facts stated in the foregoing application. (Code 1993)

5-207. LICENSE FEE; TIME LIMITS; EXEMPTIONS. (a) Except as provided in subsection (c), the fee for the license required pursuant to section 5-202 shall be in the amount of \$5 per each day, or portion thereof, that the licensee shall operate within the city limits. In no event, however, shall fees in excess of \$25 be collected from a licensee during any six-month period of time.

(b) Any such license granted upon application as required hereinabove shall be limited to and effective only on the days set out in the license. Solicitation or sales by any peddler, solicitor or canvasser shall be conducted only between the hours of 8:00 a.m. and 8:00 p.m.

(c) Persons and firms not having a permanently established place of business in the city, but having a permanently established house-to-house or wholesale business shall receive a license as required by section 5-202 upon the payment of \$5 for any year, and may make solicitations or sales only between the hours of 8:00 a.m. and 8:00 p.m., or upon invitation at any hour.

(d) No license fee shall be required of: (1) any person selling products of the farm or orchard actually produced by the seller; and (2) any businesses, trades or occupations which are part of fairs or celebrations sponsored by the city or any other governmental subdivision, or the state, or when part of all of the expenses of the fairs or celebrations are paid for by the city, any other governmental subdivision, or the state.

(K.S.A. 12-1617; Code 1993)

5-208. RENEWAL. All licenses issued shall be subject to renewal upon a showing of compliance with sections 5-202:203 of this article within a six month period prior to the renewal date. The city clerk need not require an additional application under section 5-203 or an additional investigation and investigation fee under sections 5-205:206 unless complaints have been received of violations of the conditions under which any license has heretofore been issued. The city clerk shall not renew or extend any license where there is satisfactory evidence of any grounds for the suspension or revocation of any prior license, and the applicant shall be required to apply for a license as in the case of an original license. (Code 1993)

5-209. DENIAL, REVOCATION OR SUSPENSION OF LICENSE; NOTICE. (a) The city clerk or chief of police may deny any application or may revoke or suspend for a period of not to exceed 30 days any license issued under this article, for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for license.

(2) Fraud, misrepresentation or false statement made in the course of carrying on the business.

(3) Any violation of this article.

(4) Conducting a business as defined in section 5-201 in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the city. Notice of the denial, revocation or suspension of a license shall be given in writing to the applicant or mailed to his or her last known address and the city clerk shall set forth the grounds of such denial, revocation or suspension.

(5) Conviction of the crime of theft, larceny, fraud, embezzlement or any felony within two years prior to the application date.
(Code 1993)

5-210. APPEAL TO GOVERNING BODY. (a) Any person aggrieved by the action of the chief of police or city clerk in the denial of an application or revocation or suspension of a license as provided in this article, shall have the right of appeal to the governing body.

(b) Such appeal shall be taken by filing with the city clerk within 14 days after notice of revocation, suspension or denial of the license has been given to or mailed to such applicant's last known address and setting forth the grounds for appeal.

(c) The governing body shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as provided herein for notice of denial, revocation or suspension.

(d) The decision and order of the governing body on such appeal shall be final and conclusive.

(Code 1993)

5-211. REGULATIONS. (a) It shall be unlawful for any licensee to make false or fraudulent statements concerning the quality of nature of his or her goods, wares and merchandise for the purpose of inducing another to purchase the same.

(b) Licensees are required to exhibit their license at the request of any person to whom they attempt to sell their goods, wares and merchandise or take orders for future delivery of the same.

(Code 1993)

5-212. USE OF STREETS AND SIDEWALKS. Except when authorized in writing by the city clerk, no peddler, solicitor or canvasser or any other person shall have exclusive right to any location in the public streets for the purpose of selling or soliciting sales, nor shall any person be permitted a stationary location in the public streets, nor shall any person be permitted to operate in the sidewalks and streets within the fire limits of the city or any congested area where his or her operations might impede or inconvenience the public. (Code 1993)

5-213. DISTURBING THE PEACE. Except when authorized in writing by the city clerk, no licensee nor any person in his or her behalf, shall use any sound device, including any loud-speaking radio or sound-amplifying system upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell. (Code 1993)

ARTICLE 3. RESERVED, FOR FUTURE USE

**ARTICLE 4. MASSAGE ESTABLISHMENTS, BATH HOUSES, AND
MODELING AND BODY PAINTING STUDIOS**

5-401.

DEFINITIONS. Definitions as used in this chapter:

(a) Bath house shall refer to the occupation of maintaining and operating for compensation any services of baths of all kinds, including all forms and methods of hydrotherapy.

(b) Body Painting Studios shall refer to the occupation of maintaining, operating and offering any services for compensation of applying paint or other substance, whether transparent or non-transparent, to or on the human body when such body is wholly or partially nude, by any means of application, technique, or process.

(c) Employee shall refer to any person, other than masseurs or masseuses, who renders any service to a permittee under this chapter, who receives compensation from the permittee or patron.

(d) Establishment shall refer to a place of business where any person, firm, partnership, association or corporation engages in or carries on or permits to be engaged in or carried on any of the activities mentioned herein for compensation.

(e) Massage shall refer to any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.

(f) Masseur or masseuse shall refer to any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.

(g) Modeling studios shall refer to the occupation of maintaining, operating and offering any services for compensation of modeling for the purpose of reproducing the human body, wholly or partially in the nude, by means of photography, painting, sketching, drawing or otherwise. To be included within the definition of modeling studios is the occupation or practices for compensation of offering one's body, wholly or partially in the nude, for the purpose of having designs of whatever nature applied thereto by whatever process or technique with any kind of substance whether it be transparent or non-transparent.

(h) Patron shall refer to any person over 18 years of age who utilizes or receives the services of any establishment subject to the provisions of this chapter and under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

(i) Recognized school shall refer to any school or institution or learning which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a resident course of study not less than 70 hours to be given in not more than three calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning.

(Code 1993)

5-402. PERMIT REQUIRED. No person, firm, partnership, association or corporation shall operate a bath house, massage establishment, body painting studio or modeling studio, as defined herein, without first having obtained a permit therefor issued by the governing body. A separate permit shall be required for each and every separate place of business conducted by any one permittee, such permit shall be valid only from January 1st to December 31st of each calendar year. (Code 1993)

5-403. APPLICATION FOR BUSINESS PERMIT - FEES. Every applicant for a permit to maintain or operate any such establishment or to be employed in such establishment shall file an application with the chief of police. Operators shall pay an annual fee of \$300 and employees an annual fee of \$25. No person shall operate, maintain or work as an attendant in any such establishment, unless such person has a valid permit issued by the city.

The application for a permit to operate any such establishment shall set forth the exact nature of the services to be provided, the proposed place of business and facilities therefor, and the name, address and telephone number of each applicant, including any stockholder holding more than 10 percent of the stock of the corporation, any partner, when a partnership is involved, and any manager.

The applicant, employee, manager, partner or any stockholder holding more than 10 percent of the stock of applicant corporation shall in addition furnish the following information:

(a) Name, address, telephone number and written proof applicant is at least 18 years of age.

(b) Two portrait photographs, at least two inches by two inches, and fingerprints.

(c) Business, occupation or employment of the applicant for the three years immediately preceding the date of application.

(d) History of person or applicant in such business or businesses, whether such person, in previously operating in this or another city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity of occupation subsequent to such action of suspension or revocation.

(e) Any criminal convictions, except minor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and the circumstances thereof.

(f) Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(g) The position or function the applicant is being hired to perform within such establishment.

(Code 1993)

5-404. EDUCATION REQUIREMENTS: MASSEUR OR MASSEUSE. (a) Any person, including an applicant for a massage establishment permit, who engages or intends to engage in the practice of massage as herein defined, shall upon making application for a permit, supply the name and address of the recognized school attended, the date attended and a copy of the diploma or certificate of graduation awarded the applicant showing the applicant has successfully completed not less than 70 hours of instruction in the theory, method, or practice of massage.

(b) Applicants for a masseur or masseuse permit may substitute one years' continuous experience as a masseur or masseuse in lieu of the requirement of a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method and work of massage is taught. Such masseur or masseuse must obtain an affidavit attesting to such experience from the owner of the establishment where the continuous year of experience occurred.

(Code 1993)

5-405. IDENTIFICATION CARDS. All or any employee issued a permit by the chief of police under the provisions of this article shall, at all times when working in an establishment subject to the provisions of this article, have in their possession a valid identification card issued by the city bearing the employee's permit number, the employee's physical description and a photograph of such employee. Such identification cards shall be laminated to prevent alteration. Provided, that all persons granted permits under this article shall at all times keep their permits available for inspection upon request of any person, who by law may inspect same. (Code 1993)

5-406. ISSUANCE OF PERMIT. After the filing of an application in the proper form, the governing body shall examine the application and after such examination, shall issue a permit for a massage establishment, bath house, modeling studio or body painting studio or employee permit, unless the governing body finds that:

(a) The correct permit fee has not been tendered to the city, and, in the case of a check or bank draft, honored with payment upon presentation;

(b) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the city's building, zoning and health regulations;

(c) The applicant, if an individual, or any of the stockholders holding more than 10 percent of the stock of the corporation, any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, have been convicted of any crime which would make any person ineligible to receive a permit hereunder, unless such conviction occurred at least five years prior to the date of the application;

(d) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith;

(e) The applicant has had a massage establishment, bath house, body painting studio or modeling studio as defined herein, or other similar permit or license denied, revoked or suspended for any of the above causes by the city or any other state or local agency within five years prior to the date of the application;

(f) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, is not over the age of 18 years;

(g) The manager or other person principally in charge of the operation of the business would be ineligible to receive a permit under the provisions of this article; and

(h) In the case of a masseur or masseuse that the applicant has not successfully completed a resident course of study or learning from a recognized school as required under the provisions of this article.

Any permit issued under the provisions of this chapter shall at all times be displayed by the permittee in an open and conspicuous place on the premises where the permitted business is conducted. (Code 1993)

5-407.

REVOCATION OR SUSPENSION OF PERMIT. (a) Any permit issued for an employee or for a massage establishment, bath house, modeling studio or body painting studio may be revoked or suspended by the governing body after a public hearing before the governing body where it is found that any of the provisions of this article are violated or where the permittee or any employee of the permittee, including a masseur or masseuse, has been convicted of any offense found in sections 5-403 and 5-405 herein and the permittee has actual or constructive knowledge of the violation or conviction, or in any case, where the permittee or licensee refuses to permit any duly authorized police officer or health inspector of the city to inspect the premises or the operations therein.

(b) The governing body, before revoking or suspending any permit, shall give the permittee at least 10 days written notice of the charges against him or her and the opportunity for a public hearing before the governing body, at which time the permittee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.
(Code 1993)

5-408.

FACILITIES NECESSARY. No permit to conduct such establishment shall be issued unless an inspection by the health director or his or her authorized representative reveals that the establishment complies with each of the following minimum requirements:

(a) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the business' operation shall be maintained in a clean and sanitary condition. Towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth or any area within any permitted establishment which is fitted with a door capable of being locked.

(b) Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

(c) Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

The health director shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the chief of police. Provided, however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance or premises, nor to preclude authorized inspection thereof. (Code 1993)

5-409

INSPECTIONS, IMMEDIATE RIGHT OF ENTRY. The police department and health director may from time to time make an inspection of each permitted establishment in this city for the purposes of determining that the provisions of this article are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer immediate access to the premises or to hinder such officer in any manner. Provided further, that any failure on the part of any permittee or employee to grant immediate access to such inspector shall be grounds for the revocation or suspension of any business or employee permit. (Code 1993)

5-410.

OPERATION REGULATIONS. The operation of any such establishment shall be subject to the following regulations:

(a) Hours. Such business shall be closed and operations shall cease between the hours of 12:00 midnight and 6:00 a.m. each day.

(b) Separation of sexes. It shall be unlawful for customers of opposite sex to receive treatment in the same room or the same quarters at the same time.

(c) Danger to safety, health. No service shall be given which is clearly dangerous or harmful in the opinion of the health director to the safety or health of any person, and after such notice in writing to the licensee from such director.

(d) Alcoholic beverages. No alcoholic beverages or cereal malt beverages, nor the consumption thereof, shall be allowed, permitted or suffered to be done in or upon any premises permitted under the provisions of this article.

(e) Conduct of premises. All operators permitted under the provisions of this article shall at all times be responsible for the conduct of business on their permitted premises and for any act or conduct of their employees which constitutes a violation of the provisions of this article. Any violation of the city, state or federal laws committed on the permitted premises by any such permittee or employee affecting the eligibility for suitability of such person to hold a license or permit may be grounds for suspension or revocation of same.

(f) Every portion of a permitted establishment, including appliances and personnel shall be kept clean and operated in a sanitary condition.

(g) All employees shall be clean and wear clean outer garments which use is restricted to the permitted establishment. Provisions for a separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.

(h) All employees, masseurs and masseuses must be modestly attired. Diaphanous, flimsy, transparent, form-fitting or tight clothing is prohibited. Clothing must cover the employees', masseurs' or masseuses' chests at all times. Hemlines of skirts, dresses or other such attire may be no higher than the top of the knee.

(i) The private parts of patrons must be covered by towels, cloths or undergarments when in the presence of an employee, masseur or masseuse. Any contact with a patron's genital area is strictly prohibited.

(j) All permitted establishments, when applicable, shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in approved, sanitary manner.

(k) Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.

(Code 1993)

5-411. SUPERVISION. A permittee shall have the premises supervised at all times when open for business. (Any business rendering massage services shall have one person who qualifies as a masseur or masseuse on the premises at all times while the establishment is open.) The permittee shall personally supervise the business, and shall not violate or permit others to violate, any applicable provision of this article. The violation of any such provision by any agent or employee of the permittee shall constitute a violation by the permittee. (Code 1993)

5-412. EMPLOYEE AND PATRON REGISTRATION. (a) All operators permitted under the provisions of this article shall keep and maintain on their premises a current register of all their employees showing such employee's name, address and permit number. Such register shall be open to inspection at all reasonable times by any health inspector or members of the city police department.

(b) Every person who engages in or conducts a permitted establishment shall keep a daily register, approved as to form by the police department, of all patrons, with names, addresses, and hours of arrival and, if applicable, the rooms or cubicles assigned. Said daily register shall at all times during business hours be subject to inspection by city health officials and by the police department and shall be kept on file for one year.

(Code 1993)

5-413. AGE RESTRICTION. No person shall permit any person under the age of 18 years of age to come or remain on the premises of any permitted business establishment as masseur, employee or patron, unless such person is on the premises on lawful business. (Code 1993)

- 5-414. **ADVERTISING.** No establishment granted a permit under provisions of this article shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than those services as described in section 5-401, or that employees, masseurs or masseuses are dressed in any manner other than described in section 5-410, nor shall any establishment indicate in the text of such advertising that any service is available other than those services described in section 5-401. (Code 1993)
- 5-415. **TRANSFER OF PERMITS; OTHER LICENSES AND FEES.** (a) No massage business, bath house, modeling studio, body painting studio or employee permits are transferable, separate or divisible, and such authority as a permit confers shall be conferred only on the permittee named therein.
 (b) Any applications made, fees paid and permits obtained under the provisions of this chapter shall be in addition to and not in lieu of any other fees, permits or licenses required to be paid or obtained under any other laws of this city.
(Code 1993)
- 5-416. **EXCEPTIONS.** The provisions of this article shall not apply to hospitals, nursing homes, sanitariums or persons holding an unrevoked certificate to practice the healing arts under the laws of this state, or persons working under the direction of any such persons or in any such establishment, nor shall this article apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by this state. (Code 1993)
- 5-417. **FURTHER REGULATIONS.** The chief of police or the health director may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this article. (Code 1993)
- 5-418. **RESTRICTION OF BUSINESS TO PREMISES.** All business or activity provided for under this article shall be conducted and performed on the respective premises; provided, however, that bath house or massage shop permittees or employees at the direction of a duly licensed physician may perform their services in behalf of physically incapacitated patients in such patient's home, residence or other designated place, or such permittee or employee, may render such treatment to persons who are bedfast or are so physically incapacitated that it is impractical to provide same to such persons at a permitted location, and provided further that all such services so rendered shall have received the prior approval of the chief of police or health director or their authorized representative. (Code 1993)

