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SAUNA / DAYSPA / MASSAGE ESTABLISHMENT BUSINESS LICENSE APPLICATION

Application for (please check all that apply):

- NEW RENEWAL
- Massage Therapist Certification \$ 85.00
 - Massage Therapist Renewal/Annual Certification \$ 55.00
 - Application/Background Check \$ 100.00

TOTAL FEE ENCLOSED \$ _____

THE COMPLETED APPLICATION FOR RENEWAL MUST BE RECEIVED ON OR BEFORE JUNE 14TH. AN INCOMPLETE APPLICATION OR ANY PART THEREOF RECEIVED ON OR AFTER JULY 1ST WILL INCURE A \$50.00 LATE FEE FOR EXPIDITED PROCESSING

Licensing period is July 1 – June 30 of each year

BUSINESS NAME: _____

BUSINESS ADDRESS: _____

BUSINESS PHONE: _____

HOURS OF OPERATION: _____

APPLICANT NAME: _____

APPLICANT ADDRESS: _____

APPLICANT PHONE: _____

APPLICANT EMAIL: _____

SCHOOL ATTENDED: _____

DEGREE(S) RECEIVED: _____

LIST QUALIFICATIONS (attach certification): _____

LIST THREE CHARACTER REFERENCES (include address and phone number):

HAS APPLICANT EVER BEEN CONVICTED OF A CRIME OTHER THAN A TRAFFIC VIOLATION?

YES _____ NO _____

IF YES, PLEASE GIVE EXPLANATION ON A SEPARATE PIECE OF PAPER. INCLUDE DETAILS SUCH AS DATE, PLACE AND NATURE OF CRIME OR OFFENSE AND DISPOSITION THEREOF.

*****OFFICE USE ONLY*****

Date Paid: _____

License Fee Paid \$ _____ License # _____

Date City Council Approval: _____

(IF APPLICABLE) Late Fee Paid \$ _____

THE APPLICANT SHALL PROVIDE THE FOLLOWING INFORMATION:

- 1. EVIDENCE OF APPLICANT'S EDUCATION INCLUDING CONTINUING EDUCATION IF APPLICABLE.**
- 2. EVIDENCE OF THE APPLICANT'S QUALIFICATIONS.**
- 3. EVIDENCE IN THE FORM OF A CURRENT CERTIFICATE FROM A LICENSED PHYSICIAN PRACTICING IN MINNESOTA INDICATING THAT SAID MASSAGE THERAPIST WAS EXAMINED AND IS FREE OF ANY COMMUNICABLE DISEASE THAT WOULD DISQUALIFY THE APPLICANT FROM ENGAGING IN THE PRACTICE OF MASSAGE.**

A RENEWAL CERTIFICATE WILL BE REQUIRED EACH CALENDAR YEAR ALONG WITH A PHYSICAL EXAMINATION CERTIFICATE, COMPLETED APPLICATION AND RENEWAL FEE.

THE UNDERSIGNED APPLICANT MAKES THIS APPLICATION PURSUANT TO ALL THE LAWS OF THE CITY OF LEXINGTON, ANOKA COUNTY, STATE OF MINNESOTA AND SUCH RULES AND REGULATIONS AS THE CITY COUNCIL OF THE CITY OF LEXINGTON MAY FROM TIME TO TIME PRESCRIBE.

I HERBY CERTIFY THAT I HAVE READ THE FOREGOING QUESTIONS AND THAT THE ANSWERS TO SAID QUESTIONS ARE TRUE OF MY OWN KNOWLEDGE.

Applicant's Signature _____

Date: _____

**MINNESOTA BUSINESS TAX IDENTIFICATION NUMBER
AND
SOCIAL SECURITY NUMBER**

Pursuant to Laws of Minnesota, 1984, Chapter 502, Article 8, Section 2 (270.72) (Tax Clearance; Issuance of Licenses), the licensing authority is required to provide to the Minnesota Commissioner of Revenue your Minnesota business tax identification number and the Social Security number of each license applicant.

Under the Minnesota Government Data Practices Act and the Federal Privacy Act of 1974, we are required to advise you of the following regarding the use of this information:

1. This information may be used to deny the issuance of renewal of your license in the event you owe Minnesota Sales, employers withholding or motor vehicle excise taxes:

2. Upon receiving this information, the licensing authority will supply it only to the Minnesota Department of Revenue. However, under the Federal exchange of Information Agreement the Department of Revenue may supply this information to the Internal Revenue Service.

3. **FAILURE TO SUPPLY THIS INFORMATION MAY JEOPARDIZE OR DELAY THE PROCESSING OF YOUR LICENSE ISSUANCE OR RENEWAL APPLICATION.**

Please supply the following information and return along with your application to the licensing authority.

Applicant's Last Name	First Name	Middle Initial
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Applicant's Address

Applicant's Social Security Number	Position (Officer, Partner, etc.)
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Business Name

Business Address	City	State	Zip Code
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MN Tax ID Number NOT Required

***Minnesota Tax Identification Number**

Signature	Date
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*If a Minnesota Tax ID Number is not required for the business being operated, indicate that by placing an X in the box.

**CERTIFICATION OF COMPLIANCE
MINNESOTA WORKER'S COMPENSATION LAW**

Minnesota Statute, Section 176.182 requires every state and local licensing agency to withhold the issuance or renewal of a license or permit to operate a business or engage in an activity in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirement of Chapter 176. The information required is: the name of the insurance company, the policy number, and dates of coverage or the permit to self-insure. This information will be collected by the licensing agency and retained in their files.

Law requires this information, and licenses and permits to operate a business may not be issued or renewed if it is not provided and/or is falsely reported. Furthermore, if this information is not provided or falsely stated it may result in a \$2,000 penalty assessed against the applicant by the Commissioner of the Department of Labor and Industry.

Insurance Company Name: _____
(NOT the insurance agent)

Policy Number: _____

Dates of Coverage: _____ to _____

or

I am not required to have workers' compensation liability coverage because:

- I have no employees
- I am self-insured (include permit to self-insure)
- I have no employees who are covered by the workers' compensation law (these include: Spouse, Parents, Children and Certain Farm Employees)

I certify that the information provided above is accurate and complete and that valid workers' compensation policy will be kept in effect at all times as required by law.

Name: _____
(Last, first, middle)

Doing Business As: _____
(Business name)

Business Address: _____

City, State, Zip: _____ Phone: _____

Signature: _____ Date: _____

**MINNESOTA STATUTE
176.182 BUSINESS LICENSES OR PERMITS
COVERAGE REQUIRED.**

Every state or local licensing agency shall withhold the issuance or renewal of a license or permit to operate a business in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirement of section 176.181, subdivision 2, by providing the name of the insurance company, the policy number, and dates of coverage or the permit to self-insure. The commissioner shall assess a penalty to the employer of \$2,000 payable to the assigned risk safety account, if the information is not reported or is falsely reported.

Neither the state nor any governmental subdivision of the state shall enter into any contract for the doing of any public work before receiving from all other contracting parties acceptable evidence of compliance with the workers' compensation insurance coverage requirement of section 176.181, subdivision 2.

This section shall not be construed to create any liability on the part of the state or any governmental subdivision to pay workers' compensation benefits or to indemnify the special compensation fund, an employer, or insurer who pays workers' compensation benefits.

HIST: 1981 c 346 s 94; 1983 c 290 s 114; 1987 c 332 c 332 s 47; 1992 c 510 art 3 s 19; 1995 c 231 art 2 s 72

**CITY OF LEXINGTON
COUNTY OF ANOKA
STATE OF MINNESOTA**

ORDINANCE 12-05

AN ORDINANCE RENAMING CHAPTER HEADING, AMENDING
CHAPTER SECTIONS 6.42. COMMERCIAL SAUNA AND
MASSAGE SERVICES

THE CITY COUNCIL OF THE CITY OF LEXINGTON, MINNESOTA DOES ORDAIN:

SECTION 6.42: COMMERCIAL SAUNA AND MASSAGE SERVICES

Subdivision

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- Subd. 2. Definitions
- Subd. 3. Distinction; exemptions

Licenses

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GENERAL PROVISIONS

Subd. 1. Statement of Policy.

(A) The City Council of the City deems it necessary to provide for the special and express regulation of businesses or commercial enterprises which provide therapeutic massage or public saunas. Similar adult-oriented services operate under different names in order to protect the public health, safety and welfare and to guard against the inception and transmission of disease.

(B) The City Council finds that commercial enterprises such as the type described in this Chapter, and all other similar establishments whose services include sessions offered to adults, conducted in private by members of the same or the opposite sex and employing personnel with no specialized training are susceptible to operation in a manner contravening, subverting or endangering the morals of the community by being the site of acts of prostitution, illicit sex and occasions of violent crimes, thus requiring close inspection, policing, licensing and regulation.

(C) The City Council finds that commercial enterprises such as the type described in this Chapter, and all other similar establishments whose services include sessions offered to adults, conducted in private by members of the same or the opposite sex and employing personnel with specialized training, professional licensing and/or standards of professional practice are less susceptible to operation in a manner contravening, subverting or endangering the morals of the community thus requiring a different level of inspection, licensing and regulation than establishments employing personnel with no specialized training, professional licensing and/or standards of professional practice.

The City further finds that regulating businesses and individuals who practice therapeutic massage and work associated with massage by creating a licensed activity for those who have a higher level of training, license, and professional standards help to:

- (1) Create barriers to entry into the commercial field of therapeutic massage against individuals or businesses likely commit criminal acts or provide injurious services to the public;
- (2) Ensure that people who use therapeutic massage for health and wellness will receiving the highest possible level of competent, ethical, and effective treatment and care;
- (3) Remove the stigma of therapeutic massage being a sensual or sexual activity and promote it as an accepted business practice.

Subd. 2. Definitions.

For the purpose of this chapter, the following definitions will apply unless the context clearly indicates or requires a different meaning.

DAY SPA. A spa that offers all or a portion of the following:

- (1) Environment: a clean, safe, calming and nurturing environment;
- (2) Privacy: private treatment area for each client receiving a personal service;
- (3) Business licenses: professional, licensed esthetician and therapists on staff;
- (4) Products: professional spa products for which estheticians and therapists have received training in their use;

(5) Massages: Swedish, lymph drainage, reflexology, shiatsu, polarity, sports, deep tissue, deep muscle, or other types of massage related work;

(6) Body treatments (one or more on the menu): body packs and wraps, exfoliation, cellulite, body toning/contouring, waxing, homecare program (optional: electrical impulse body toning, heat treatments, Ayurveda treatments, laser hair removal, electrolysis, hand and foot care);

(7) Face: cleansing facial, homecare program (optional medical facial, electrical toning, laser hair removal, electrolysis, cosmetic, make-up consultation);

(8) Aromatherapy: personalized for body and/or face:

(a) One of the following:

1. Hydrotherapy; or
2. Steam and sauna.

(b) One of the following:

1. Nutritional counseling/weight management; or
2. Private trainer/yoga/meditation; or
3. Spa cuisine.

(9) Optional: hair: full-service salon, scalp treatments and hair packs, spa manicure and pedicure.

GOOD REPAIR. Free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions and similar defects so as to constitute a good and sound condition.

MASSAGE. The rubbing, stroking, kneading, tapping or rolling of the body of another with the hands for the exclusive purpose of physical fitness, relaxation, beautification, healthcare and for no other purpose, and performed in a manner consistent with the training, education and policies recognized by professional societies and standards to include, but not limited to the:

- (a) National Organization Board for Therapeutic Massage and Bodywork;
- (b) American Massage Therapy Association; or
- (c) Associated Massage and Bodywork Professionals.

MASSAGE THERAPIST CERTIFICATE. A certificate issued by the City to a person who meets the appropriate requirements to practice or administer massage in the City.

MASSAGE THERAPY ESTABLISHMENT. Any premises at or in which therapeutic massage is performed.

MASSAGE THERAPIST. A person who practices or administers massage and has obtained the required certification to practice or administer massage in the City.

SAUNA. A steam bath or heat bathing room used for the purpose of bathing, relaxing or reducing agent utilizing steam or hot air as a cleaning, relaxing or reducing agent.

SAUNA ESTABLISHMENT LICENSE. A license issued by the City authorizing the commercial operation of a sauna on premises within the City.

Subd. 3. Distinction; Exemptions.

(A) The practice of massage as an activity licensed by the City is hereby declared to be distinct from the practice set forth below and those practices expressly excluded from the provisions of this Chapter. Practices expressly excluded from this Chapter include:

- (1) The practice of medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry; persons duly licensed in this State to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry, nurses and health care workers who work solely under the direction of those persons;
- (2) Institutions such as hospitals, rest homes, nursing homes, or other institutions licensed under the provisions of Minnesota Statutes § 144.50 to § 144.69;
- (3) Beauty culturists and barbers who do not give or hold themselves out to give massage, as defined herein, other than is customarily given in those shops or places of business shall be exempt from the provisions of this chapter insofar as they hold an appropriate license issued by the State of Minnesota;
- (4) Athletic directors and trainers who perform massage in the course of any athletic program or event which is sponsored by a local unit of government, bona fide educational institution complying with State or local regulations, bona fide churches, synagogues or institutions of organized religion or bona fide, nonprofit civic organizations are expressly excluded from the requirements of this Chapter, provided that the performing of massage is subsidiary to the performing of other services and tasks.

LICENSES

Subd. 15. Licenses Required.

(A) No person shall engage in the business of operating a sauna, day spa, or massage therapy establishment either exclusively or in connection with any business enterprise without obtaining a license for that business establishment located in a commercial or mixed use zone and within a commercial enterprise as provided in this Chapter and shall only provide services on the premises of the licensed establishment.

(B) General requirements for obtaining licensing as provided in this Chapter.

- (1) Individuals who provide services regulated by this Chapter for the licensed establishment may only do so if they are individually licensed or certified pursuant to this Chapter;
- (2) No establishment regulated by this Chapter may be granted a license or operate as a business unless it employs at least one person who is individually licensed or certified pursuant to this Chapter to perform services regulated by this Chapter.
- (3) All licenses pursuant to this Chapter must participate in a background investigation and successful completion of same prior to receiving a license. All licensees must grant the City the unlimited right to perform criminal background investigations during the pendency and period of the license application and operation.

(C) Whenever any establishment ceases to be licensed as a sauna, day spa or massage therapy establishment, whether through the suspension, cancellation, revocation, nonrenewal, lack of employing of a licensed individual, or lapse of its license, its owners shall immediately remove from public view any sign or display which identified the establishment as a sauna, day spa, or massage therapy establishment or as offering sauna or massage services.

Penalty, see Subd. 99.

Subd. 16. Contents of Application.

(A) Application for a sauna, day spa, or massage therapy establishment license shall be made only on the forms provided by the Administrator or designated staff.

(B) Four complete copies of the application shall be furnished to the office of the Administrator containing the following information:

- (1) Address and legal description of the property to be used;
- (2) The names, addresses and telephone numbers of the owner, lessee if any, and the operator or manager;
- (3) The name, address and telephone number of three persons who may be called upon to attest to the applicant's, manager's or operator's character;
- (4) Whether the applicant, manager or operator has ever been convicted or charged with a crime or offense other than a non-criminal traffic offense and, if so, provide information as to the time, place and nature of the crime and the disposition for each charged offense. This includes disclosure of charges that have been dismissed, expunged, acquitted, pardoned, or any type of stayed sentence or adjudication, or diversion program;
- (5) The names and addresses of all creditors of the applicant, owner, lessee or manager insofar as and regarding credit which has been extended for the purposes of constructing, equipping, maintaining, operating or furnishing or acquiring the premises, personal effects, equipment or anything incident to the establishment, maintenance and operation of the massage parlor or massage establishment;
- (6) If the application is made on behalf of a corporation, joint business venture, partnership or any legally constituted business association, it shall submit, along with its application, accurate and complete business records showing the names and addresses of all individuals having an interest in the business, including partners, officers, owners, managers, members of the board of directors and creditors furnishing credit for the establishment, acquisition, maintenance and furnishing of the business, including the purchase or acquisition of any items of personal property for use in the operation;
- (7) Complete accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon or in which the business is proposed to be located, in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise offering massage;

- (8) The application shall also contain blueprints, diagrams, plans, layouts and the like showing the construction, revision, remodeling, alteration or additions of or to the premises, and specifically showing the layout, design and arrangement of the bathing and restroom facilities and the size and type of equipment and facilities to be used.
- (9) Identify any prior or current professional license or license application from a jurisdiction other than the City. For each license or application supply the date of application, the nature of the license, whether the application was granted or denied, current status of the license or application, specify any adverse action (such as revocation, suspension, cancellation, or conditional provisions of practice of a professional license, or criminal charges) take against the license, licensee, any employee, agent, contractor, or other person associated with any license or license application from another jurisdiction;
- (10) The name and identify of all persons practicing services for the applicant establishment that are regulated by this Chapter. The applicant must specify the individual(s) who will be licensed and certified by the City to conduct the regulated services and must always keep that information current by giving immediate notice to the local Police Department and City anytime that information changes. (Each of these individuals are subject to individual licensing or certification requirements of this Chapter.);
- (11) A general authorization for release of information signed by the applicant granting the local Police Department and/or City authorization to complete the required investigation and to reinvestigate during the pendency of the license period.

Subd. 17. License Fee, Investigation Fee and License Year.

(A) The investigation fee shall be set by Council, on an annual basis, through ordinance along with the annual license fee. A license, unless revoked, is for the calendar year or a part thereof for which it has been issued. The license fee and fee for the investigation of the license application shall be paid when the application is filed. In the event that the application is denied or the license, once issued, is revoked, cancelled or surrendered, no part of the annual license fee and investigation fee shall be returned to the applicant unless by express action of the City Council.

(B) A separate license shall be obtained each year for each place of business. The licensee shall display the license in a prominent place in the licensed premises at all times. A license for the operation of a massage therapy establishment or sauna establishment is nontransferable.

Subd. 18. Granting or Denial of Licenses.

(A) License applications shall be reviewed by the Police Department and other departments as the City Council shall deem necessary.

(B) The review shall include any inspection of the premises covered by the application by the Building Inspector and Fire Department to determine whether the premises conform to all applicable code requirements. Recommendations shall be made in writing to the Administrator. Thereafter, licenses shall be granted or denied by the City Council subject to the provisions of this chapter. The applicant may appeal to the City Council.

Subd. 19. Conditions Governing Issuance of License.

(A) No sauna, day spa or massage therapy establishment license shall be issued if the applicant or any of its

owners, lessees, managers, employees or agents is a person of bad repute;

(B) Sauna, day spa or massage therapy establishment licenses shall be issued only if the applicant and all of its owners, lessees, managers, employees and agents are free of convictions for offenses which involve moral turpitude or which relate directly to the person's ability, capacity or fitness to perform the duties and discharge the responsibilities of the licensed activity;

(C) Licenses shall be issued only to applicants who have not, within one year prior to the date of application, been denied licensing; or who have not within that period had their license revoked;

(D) Licenses shall be issued only to applicants who have completely answered all of the information requested in the application in an accurate and truthful manner subject to the penalty of criminal perjury, have paid the full license fee and have cooperated with the city in review of the application;

(E) A license shall not be granted to an applicant who is under the age of 18 years;

(F) Licenses may be granted only for locations with commercial or mixed use zones allowing similar activities;

(G) Licenses may be granted only to establishments which can meet the health, safety, sanitary and building code requirements of the City;

(H) A license shall not be granted if granting the license either would be inconsistent with the comprehensive development plan of the City, or would otherwise have a detrimental effect upon the property or properties in the vicinity; and

(I) Licensee must provide and maintain a current copy of its insurance policy with the City and that policy must maintain a provision that the insurer shall notify the City of any change to the policy, notice of nonpayment or notice of cancellation.

(J) Licensee must provide a general authorization for release of information signed by the applicant granting the local Police Department and/or City authorization to complete the required investigation and reinvestigate during the pendency of the license period.

Penalty, see Subd. 99.

Subd. 20. Construction and Maintenance Requirements.

(A) Each licensed premises shall have separate restrooms for members of each sex or else have individual restrooms suited for use by one person at a time.

(B) Floors, walls and equipment in massage rooms, restrooms and bathrooms must be kept in a state of good repair and sanitary condition at all times. Linen and other materials shall be stored at least 12 inches off the floor.

(C) Massage tables and other equipment shall be kept in a sanitary condition including but not limited to the use of disposable or cloth sanitary protectors on tables and face cradles.

(D) Each licensed premises shall provide adequate refuse receptacles, which shall be emptied as often as required.

(E)

(1) The doors to the individual massage rooms shall not be equipped with any locking device or else all interior doors shall be locked with a common keyed lock and a copy of that key shall be on deposit with the local Police Department.

(2) Main entrance doors to the premises shall be unlocked at all times during business hours and while anyone is present on the premises.

(F) Exterior signage is required and must prominently state that the establishment provides sauna, day spa or massage therapy services.

Penalty, see Subd. 99.

Subd. 21. Restrictions and Regulations.

(A) No licensee shall employ any person as a massage therapist without first ensuring that the employee possesses a valid certificate for the administration or practice of massage from the City. The certificate shall be prominently and openly displayed on the premises.

(B) The licensed premises may only be open for business or in operation anytime between the hours of 8:00 a.m. and 9:00 p.m. The actual hours when a licensee chooses to conduct business on the licensed premises must be on file with the local Police Department and the City as designated in their license application. These designated hours must be prominently posted on the exterior and interior of the licensed premises. Each licensee must so file their designated hours of operation. No person may engage in the practice of any service regulated by this Chapter outside of those designated hours. Clientele may be on the licensed premises for no more than fifteen minutes before or after the designated hours. No other person may be on the premises for more than one hour before or after the designated hours. Persons on the premises outside of the designated or authorized hours are subject to criminal prosecution for loitering or other crimes. Clientele, employees, agents and other persons on the premises must be so notified that they may be subject to criminal prosecution in this manner and it is incumbent upon the licensed establishment to so notify individuals by either posted notice or in writing. Failure to give notice to an individual shall not be a defense to this subdivision violation.

(C) The licensee, certificate holder or any persons in his or her employ or agents or officers thereof, and any and all persons with interest in the business shall comply with all applicable ordinances, regulations and laws of the City, the State and the United States Government.

(D) If the licensee is a partnership or corporation, the licensee shall designate a person to be manager and in responsible charge of the business. This person shall remain responsible for conduct of the business until another suitable person has been designated in writing by the licensee. The licensee shall promptly notify the local Police Department in writing of any change in manager, indicating the name, address and telephone number of the new manager and the effective date of the change.

(E) During any hours of operation or at anytime a person is present on the licensed premises such establishment shall be open for inspection by City inspectors or local police officers. Inspection shall include:

- (1) Upon demand all persons employed or contracted by the licensed establishment or engaged in providing services shall identify themselves, giving their true and legal name, and proof of their identity.
- (2) All licenses, certificates, insurance and financial records of the establishment and its employees, contractors or agents must be available for inspection during these times.
- (3) The physical premises may be inspected.

(F) Refusal to allow an inspection or to answer the request of City, local Police, Fire or other authority to being admitted into a licensed premises, identify employees, or unavailability of financial records shall be grounds for immediate suspension or revocation of all licenses or certificates.

(G) Fees for all services shall be prominently posted in the reception area in a location available to all prospective customers.

CERTIFICATES

Subd. 30. Massage Certificate Required.

No person shall perform massage services within the City without a massage certificate as provided in this Chapter.

Penalty, see Subd. 99.

Subd. 31. Contents of Application for Certificate.

(A) An application for a massage certificate shall be made only on forms provided by the City.

(B) The application shall contain the following information together with any other information the City may require:

- (1) Evidence of the applicant's educational qualifications, including originals or certified copies of degrees, diplomas, certificates or licenses, if any, including proof of receiving educational, certification or licensing requirements least;
- (2) Evidence of applicant's practical qualifications to practice massage;
- (3) The names and addresses of three persons, who may be referred to as to the applicant's character;
- (4) Whether the applicant has ever been convicted or charged with a crime or offense other than a non-criminal traffic offense and if so, information as to the time, place and nature of the crime, and the disposition for each charged offense. This includes disclosure of charges that have been dismissed, expunged, acquitted, pardoned, or any type of stayed sentence or adjudication, or diversion program;
- (5) A general authorization for release of information signed by the applicant granting the local Police Department and/or City authorization to complete the required investigation and to reinvestigate during the pendency of the license period.

Subd. 32. Fee, Investigation Fee and Year.

The investigation fee shall be determined by City Council on an annual basis through ordinance along with the annual certificate fee. The certificate year shall be the calendar year and a certificate shall be valid for the remainder of the calendar year in which it is issued. The certificate fee and fee for investigation for the certificate shall be paid when the application is filed. In the event that the application is denied or that the certificate, once issued, is revoked, cancelled or surrendered, no part of the annual certificate fee and investigation fee for the issuance of a certificate shall be returned to the applicant unless by express action of the City Council. A separate certificate shall be obtained each year. The certificate holder shall display the certificate in a prominent place in the licensed premises at all times. A certificate permitting the holder thereof to practice massage is nontransferable.

Subd. 33. Investigation of Application.

(A) Certificate applications shall be reviewed by the local Police Department, which shall furnish written recommendations to the City Council.

(B) Thereafter certificates shall be granted or denied by the City Council subject to the provisions of this Chapter.

(C) The applicant may appeal to the City Council.

Subd. 34. Conditions Governing Issuance of Certificate.

(A) Certificates shall be issued only to persons who have received and can furnish proof of receiving a qualifying amount of education. These minimum requirements are any of the following:

- (1) Hold an associates degree or greater level degree in a field of nursing or physical therapy from a State-accredited, post-secondary educational institution, and hold a current license, in good standing, from the State of Minnesota to practice nursing or physical therapy;
- (2) Receive no less than 500 hours of certified therapeutic massage training from an institution recognized and accredited by a State or National professional therapeutic massage organization, to include, but not limited to the:
 - (a) American Massage Therapy Association, or
 - (b) Associated Massage and Bodywork Professionals; or
- (3) Receive no less than 500 hours of certified therapeutic massage training from any institution, and successfully pass the national examination for therapeutic massage within the year prior to application as offered by the National Organization Board for Therapeutic Massage and Bodywork.

(B) Certificates shall be issued only to persons of good repute.

(C) Certificates shall be issued only to persons free of convictions for offenses which involve moral turpitude or which relate directly to the person's ability, capacity or fitness to perform the duties and discharge the responsibilities of the occupation.

(D) Certificates shall not be issued to persons who have, within one year prior to the date of application, been denied certification; or who have had his or her certificate revoked or surrendered in or by any political subdivision, a municipality or by the State.

(E) Certificates shall be issued only to applicants who have completely answered all of the information requested in the application in an accurate and truthful manner subject to the penalty of criminal perjury, have paid the full license fee and have cooperated with the City in review of the application.

Subd. 35. Restrictions and Regulations.

(A) During any hours of operation or at any time a person is present on the licensed premises, such establishment shall be open for inspection by City inspectors or local police officers. Upon demand all persons employed by the licensed establishment or engaged in providing services shall identify themselves, giving their true, legal name and proof of their identity. The certificate issued by the City, insurance and financial records of the establishment must be available for inspection during these times.

(B) Any person acting as a massage therapist shall have his or her certificate displayed in a prominent place at his or her place of employment, and upon demand by any local police officer or other authorized officer or agent of the City, any person engaged in practicing massage shall identify himself or herself giving his or her true, legal name and proof of their identity.

(C) Any person practicing massage within the City shall initially advise the City of his or her address, telephone number and shall further advise the City of any changes in address or telephone number within ten days of the change.

(D) Any person practicing massage within the City may do so only at premises which are licensed for the conduct of the business as herein provided; and further, any person practicing massage shall inform the City of any changes in employment or the location of his or her employment within the City within seven days after the change.

(E) Every person to whom a massage certificate is issued, shall appear personally at the local Police Department to receive delivery of the certificate and upon such appearance shall be photographed for identification purposes. One copy of the photograph shall be permanently affixed to the certificate and a second copy thereof shall be kept in the files of the local Police Department.

(F) Fees for all services shall be prominently posted in the reception area in a location available to all prospective customers.
Penalty, see Subd. 99.

Subd. 36 Health and Disease Control.

No person while afflicted with any disease in a communicable form or while a carrier of disease or wounds, sores or any acute respiratory infection shall work in, be permitted by an employer to work in, or use the services regulated in this Chapter unless universal precautions are taken to prevent the spread of the disease or condition and to protect the general health and safety of others. Massage therapists and establishments licensed pursuant to this Chapter must use best practices and use appropriate universal precautions to prevent the spread or transmission of communicable disease.

Penalty, see Subd. 99.

Subd. 37. Revocation, Suspension or Nonrenewal of Certificate.

(A) The massage certificate may be denied, revoked, suspended or not renewed by the City Council by showing that the applicant, licensee, its owners, managers, employees, agents or any other interested parties, as enumerated in contents of application section of this Chapter have engaged in any of the following conduct:

- (1) Fraud, deception or misrepresentation in connection with the securing of the license;
- (2) Drunkenness or intemperance in the use of drugs, including but not limited to the use of drugs, defined in M.S. §618.01, as amended, barbiturates, hallucinogenic drugs, amphetamines, Benzedrine, Dexedrine or other sedatives, depressants, stimulants or tranquilizers;
- (3) Engaging in conduct involving moral turpitude by permitting or allowing others within their employ or agency to engage in conduct involving moral turpitude or failing to prevent agents, officers or employees in engaging in conduct involving moral turpitude;
- (4) Failure to fully comply with any requirements of the City code regarding the sanitary and safety conditions, zoning requirements, building code requirements or ordinances, the violation of which involves moral turpitude, or failure to comply fully with any

- requirements of this Chapter;
- (5) Conviction of an offense involving moral turpitude by any court of competent jurisdiction;
 - (6) Engaging in any conduct which would constitute grounds for refusal to issue a license or massage certificate herein;
 - (7) Failing to allow City Officials or local Police Officers access to the license premises for inspection.

(B) Upon the report of any violation of this Chapter by the City inspector, licensed peace officer or City Attorney, the City Administrator may immediately suspend any license or certificate granted pursuant to this Chapter. Such suspensions shall be temporary and are subject to the appeal provisions as set forth in this Chapter, except that an immediate suspension shall allow the aggrieved party the right of appeal no later than ten days after a temporary suspension is effective. Any appeal pursuant to this subdivision not heard within ten days shall be rescinded.

ENFORCEMENT

Subd. 50. Appeals.

(A) The license or certificate holder has the right to appeal any adverse action set forth in this Chapter. The scope of such an appeal is as follows:

- (1) The licenses or certificate holder may appeal the denial, suspension, revocation or nonrenewal of a license or certificate to the City Council within thirty days of this event. If no appeal is filed within this period, the event is affirmed.
- (2) Except as otherwise set forth in this Chapter, the Council shall consider the appeal at the next regularly scheduled Council meeting on or after 30 days from service of the notice of appeal on the Administrator.
- (3) The license or certificate holder may present evidence and argument at the hearing of the appeal.

(B) After considering the evidence at the hearing of the appeal, the Council may:

- (1) Affirm the denial, revocation, suspension or nonrenewal;
- (2) Grant the license application, reinstate the revocation, suspension or nonrenewal; or
- (3) Where appropriate, for violations of the conditions set forth in this Chapter the Council may:
 - (a) Impose a civil fine no greater than \$3,000.00; and/or
 - (b) Impose, in its sole discretion, appropriate additional terms, conditions and stipulations upon the licensee or certificate holder before granting a license application, or reinstating a revocation, suspension or nonrenewal.

Subd. 51. Liability for Crimes of Another.

Every person who commits or attempts to commit, conspires to commit or aids and abets in the commission of any act constituting a violation of this Chapter, or any act which constitutes an omission and therefore a violation of this Chapter, whether individually or in connection with one or more persons or as a principal, agent or accessory, shall be guilty of the offense. Every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any of the provisions of this Chapter is likewise guilty of the offense.

Penalty, see Subd. 99.

Subd. 99. Penalty.

Whoever does any act forbidden by this Chapter or omits or fails to do any act required by this Chapter shall be guilty of a misdemeanor.

Section 2. Effective Date. This ordinance shall be effective immediately upon its passage and publication of the attached summary according to law.

Section 3. Summary for Publication.

SUMMARY OF ORDINANCE AMENDMENTS

TECHNICAL AMENDMENTS:

An ordinance addition to section 6.42 for regulations of commercial sauna and massage services.

PURPOSE OF PROPOSED AMENDMENTS:

Provides for the regulation of businesses or commercial enterprises which provide therapeutic massage or public saunas in order to protect the public health, safety and welfare and to guard against the inception and transmission of disease.

FULL TEXT OF AMENDMENTS AVAILABLE:

The full text of the amendments are available at the Lexington City Hall, 9180 Lexington Avenue, Lexington, MN 55014. On file with the City Clerk is the original version of the text and the amended version of the text.

PASSED AND DULY ADOPTED this 19th day of July, 2012 by the City Council of the City of Lexington.

