



**CITY OF MISSION, KANSAS**  
**FINANCE & ADMINISTRATION COMMITTEE**

**WEDNESDAY, SEPTEMBER 7, 2022 at 6:30 p.m.**  
**(or immediately following 6:00 p.m. Special City Council Meeting)**

**POWELL COMMUNITY CENTER**  
**6200 MARTWAY**

**Meeting In Person and Virtually via Zoom**

*This meeting will be held in person at the time and date shown above. In consideration of the COVID-19 social distancing recommendations, this meeting will also be available virtually via Zoom (<https://zoom.us/join>). Information will be posted, prior to the meeting, on how to join at <https://www.missionks.org/calendar.aspx>. Please contact the Administrative Offices, 913.676.8350, with any questions or concerns.*

**PUBLIC HEARINGS / PUBLIC COMMENTS**

**PUBLIC PRESENTATIONS / INFORMATIONAL ONLY**

**ACTION ITEMS**

1. Acceptance of the August 3, 2022 Finance & Administration Committee Minutes – Robyn Fulks (page 3)

Draft minutes of the August 3, 2022 Finance and Administration Committee meeting are included for review and acceptance.

2. STO/UPOC Adoption-Dan Madden (page 17)

Annually, the League of Kansas Municipalities publishes a comprehensive public offense code (UPOC) and uniform traffic code (STO) for all Kansas cities. Mission adopts these publications by ordinance, allowing us to maintain uniformity with agencies in the area, the State of Kansas, and the actions of the State Legislature. The City can opt out of certain provisions, and additional ordinances have historically been adopted by Mission to address local issues recommended to remain in place. The changes proposed for 2022 are highlighted in the action item summary and two separate ordinances have been prepared to adopt the recommended changes.

3. Massage Therapy Licensing (page 26)

The City recently received an inquiry from two Mission residents who are licensed massage therapists regarding massage establishment and massage therapist licensing as a home occupation. The council discussed the issue at the August committee meeting and felt it was reasonable to reevaluate the current code. Staff is recommending several modifications.

4. Election of Voting Delegates LKM and NLC (page 62)

As a member city of both the League of Kansas Municipalities and the National League of Cities, Mission may designate voting delegates for the business meetings held at their respective annual conferences. Council may select up to three voting delegates for the LKM Business Meeting, and one voting delegate and one alternate for the NLC Business Meeting.

5. Mission Gateway (page 63)

Public hearings for consideration of a new Tax Increment Financing (TIF) Redevelopment Project Plan and a new Community Improvement District petition have been calendared for a Special City Council meeting on Wednesday, September 28, 2022. In preparation for consideration of these items the City Council will hear several presentations and review information necessary for consideration of the various project components on September 7 and September 14. No materials are included in this packet. The focus of the September 7th Finance & Administration Committee meeting will be information from the City's financial advisor.

## DISCUSSION ITEMS

### OTHER

6. Department Updates – Laura Smith

**Trent Boultinghouse, Chairperson**  
**Debbie Kring, Vice-Chairperson**  
***Mission City Hall, 6090 Woodson St***  
***913.676.8350***

<b>City of Mission</b>	Item Number:	1.
<b>ACTION ITEM SUMMARY</b>	Date:	September 7, 2022
<b>Administration</b>	From:	Robyn Fulks

Action items require a vote to recommend the item to full City Council for further action.

**RE:** August 3, 2022 Finance & Administration Committee Minutes.

**RECOMMENDATION:** Review and accept the August 3, 2022 minutes of the Finance & Administration Committee.

**DETAILS:** Minutes of the August 3, 2022 Finance & Administration Committee meeting are presented for review and acceptance. At the committee meeting, if there are no objections or recommended corrections, the minutes will be considered accepted as presented.

Draft minutes are linked to the City Council agenda packet so that the public may review the discussion from the committee meeting in advance of the Council action on any particular item.

**CFAA CONSIDERATIONS/IMPACTS:** N/A

Related Statute/City Ordinance:	NA
Line Item Code/Description:	NA
Available Budget:	NA



**MINUTES OF THE MISSION FINANCE & ADMINISTRATION  
COMMITTEE**

August 3, 2022

The Mission Finance and Administration Committee met at the Powell Community Center and virtually via ZOOM on Wednesday, August 3, 2022. The following Committee members were present: Ken Davis, Trent Boultinghouse, Hillary Thomas, Lea Loudon, Mary Ryherd, Debbie Kring, and Ben Chociej. Councilmember Kristin Inman was absent. Mayor Flora was also in attendance. Councilmember Boultinghouse called the meeting to order at 7:29 p.m.

The following staff were present: City Administrator Laura Smith, Deputy City Administrator Brian Scott, Assistant City Administrator Emily Randel, City Clerk Robyn Fulks, Public Works Superintendent Brent Morton, Parks and Recreation Director Penn Almoney and Chief Dan Madden.

**Public Comments**

Councilmember Boultinghouse reminded the public they could participate via the chat feature on Zoom. All comments would be visible to the group.

There were no public comments.

**Public Presentations**

There were no public presentations.

**Discussion Items**

**Massage Establishment/Therapist Licensing Revisions**

Councilmember Boultinghouse asked for the Committee's approval to allow Discussion Item #7 on the agenda to move to the first order of business in order to accommodate guests in the audience. There were no objections, and Councilmember Boultinghouse invited Ms. Smith to make her presentation.

City Administrator Laura Smith introduced Mission residents Stephen and Amanda Jacoby who were in the audience and thanked the Committee for accommodating the agenda change.

Ms. Smith referenced the agenda item and documentation in the Committee packet noting this was prompted by a request from the Jacoby's regarding licensing massage therapy as a home occupation. She explained to the Committee that under Mission's current City Code massage therapy was specifically not allowed as a home occupation.

Most of the code relating to massage licensing was written in 1994 with modifications in 2000 and 2006. Inconsistencies were discovered in 2006, particularly with regards to proximity requirements between licensed massage businesses, and a 90-day moratorium was placed on massage therapy licenses while staff conducted research. Ms. Smith stated she is unaware of any previous requests to license massage therapy as a home occupation; therefore, the matter has not been specifically discussed.

The Jacobys moved to Mission from Denver, CO and began researching massage therapy licensing in our City, in Johnson County and throughout the metro. They put together information included in the Committee Packet including their thoughts on why massage therapy as home occupation aligns nicely with the Code. Ms. Smith and Mayor Flora met with the Jacobys and learned their desire to advocate for change not only at the City level, but also at the County and State levels.

Ms. Smith shared that initial research after that meeting showed that eleven cities in Johnson County allow massage therapy as a home occupation, and four, including Mission do not

Councilmember Davis asked that the issue be divided up into two parts. First, the element of certifying or regulating the profession, and second, the residential use of a business which he finds to be a broader question that pertains to many different things he has seen, for example detailing cars in a driveway, and has larger impacts on the community.

Ms. Smith responded that the Code can be reviewed to make sure it is accurately reflecting Councils goals and objectives for what business activity can occur in a residential neighborhood.

Councilmember Thomas thanked the Jacobys for being proactive and taking the right approach in resolving their questions. She was unaware that in home massage therapy wasn't allowed in Mission. She asked the Jacobys if their proposed changes are more focused on traveling to client's homes in Mission or having an in-home studio to which Mr. Jacoby responded "both."

Councilmember Thomas stated it would be helpful to have a list of what occupations are allowed in the Code to be home occupations. On the surface she is supportive of this change and continuing the conversation.

Ms. Smith stated that the code doesn't include a list of business types allowed or prohibited, but instead outlines activities that can or cannot happen at licensed home occupations, hours of operations, noise, conditions generated by the business including traffic. It's hard for the City to know what type of home business activity is going on.

Councilmember Davis emphasized his desire to carefully review the impact on residential neighborhoods, listing many services or business types which could have a negative impact. He asked that the Council be thoughtful about the process when considering what can be conducted in residential areas.

Mayor Flora commented that there are separate code provisions for home occupation licensing, the exclusion comes from the massage therapy licensing regulations. When she met with the

Jacobys she liked their idea of one universal massage therapy license, and then a separate home occupation license where the Code's home occupation licensing requirements must be met.

Councilmember Chociej stated he is in support of massage therapy as a home occupation business, and he believes the business licensing process should be streamlined in general. He cited the changes in how people work since COVID as a prime reason to reevaluate. He also stated that he believes it's healthy to have some mix of commercial businesses in a residential area to help deter crime. He stated his support of continuing the conversation.

Councilmember Loudon stated her desire to remind the Committee of a potential dark side to massage with regards to human trafficking and she would like the Committee to keep that in mind. Ms. Smith answered that she knows the Jacobys recognize and respect the need for proper licensure to help deter potential human trafficking issues. Their goal is to advocate for potential changes in the right way.

Councilmember Ryherd echoed support of the issue, especially with examples to look at from other cities. She believes their business adds to a vibrant community and would like to talk about this more.

Councilmember Thomas asked Ms. Smith to reflect on single family homes vs. apartments and the regulation differences that would need to be recommended due to possible parking issues. She also though thinks about work and live spaces like are being built at Mission Bowl.

Ms. Smith introduced Stephen and Amanda Jacoby of Mission and invited them to address the Committee. Mr. Jacoby shared his history as a massage therapist in Denver, CO including the types of clients he has worked with and the types of therapies he has provided. He gave clarification that his business is not a spa but a true therapy service. He emphasized the need for accessible places for clients suffering from things such as migraines and how hard that is to find in places like Mission. He also referenced reflexology that we do allow, which is body work, different from massage even though it meets the City's definition of massage.

Mr. Jacoby and his wife are definitely advocates for universal licensing or reciprocal licensing at a level higher than each individual city. He about the ability of his home-based massage business to offer flexibility for parents. He believes home based massage therapy makes a good neighbor as the music is quiet, only one patient can be helped at a time (per hour) so no more than four clients in the course of a day if the therapist sticks within the hours allowed in Mission's current home occupation license requirements. He believes their business would meet all criteria outlined in the Code for a home occupation business if it were allowed. He hopes to explore licensing on a County and State level too.

Ms. Jacoby addressed Councilmember Loudon's hesitations with regards to human trafficking and spoke about the steps the State of Colorado has taken to curb human trafficking including city - wide licensing. She stated that legitimate massage therapists want to be regulated. It's difficult when every city in a County has different rules, the work to become a massage therapist is cumbersome. She shared that her current position with a chair massage company sees mostly work done in Missouri because in Johnson County, only Overland Park makes it easy to comply

with the Code. Additionally, when it's difficult to get the licensing needed more people tend to do the work "under the table." Clear and easy regulation will bring legitimate therapists out of the woodwork. She reiterated the desire for one massage license and that their home-based business hits every one of the thirteen home-based businesses criteria currently outlined in the Code, citing the fact that they only treat one client at a time which addressed the increased traffic worries. Ms. Jacoby also reiterated the flexibility aspect for parents of allowing massage therapy to be a home-based business and the ultimate goal of moving the process to a countywide license and eventually a statewide level, giving examples of statewide licensing processes they would like to see including ongoing education, fingerprinting and background checks.

Councilmember Thomas thanked the Jacobys for coming before the Committee and acknowledged the legitimate role of massage therapists and believes the practice should be credentialed at a statewide level.

Mr. Jacoby responded yes, yes to Councilmember Davis's belief the practice should be credentialed at a statewide level.

Councilmember Davis went on to say that he believes the reflexology issue should be regulated in the same way, however it is not. He does not doubt the legitimacy of the work the Jacobys do. He is, however, worried about how the mix of residential and commercial activity can cause issues. He wants mindfulness to come into play when deciding the type of work that can be done at a home-based business.

Ms. Jacoby responded that they understand completely and emphasized that they are only asking for the language in the massage therapy part of the Code to be modified to remove the exclusion of massage therapy as a home-based occupation, not a change in the home occupation licensing portion of the Code.

Mr. Jacoby agreed with her and acknowledged that they are agreeable and expect two sides to licensing, the massage therapy side and the business side, and cited the exception would be in the Western part of the state where there are no regulations. He gave some history of why Kansas does not regulate massage therapy on a statewide level and noted that pushback came mostly from the Western part of the state where it is more difficult to find schooling programs that give enough hours to get licensed on a statewide level as the hour requirements for training are much higher. He stated that terminology that reflects the legitimate practice of massage therapy, including not using terms like masseuse or masseur and massage parlor. He wants to work on the City, County and State levels as well to address human trafficking.

Councilmember Chociej stated that he has heard good arguments for maintaining some need to license at the City level, where he had not been a proponent before. He doesn't want to lose out on commercial activity if licensing is too difficult, and he would love the County or State to take over massage therapy licensing, and he was fairly sure that staff would prefer that as well. But he believes from what he has heard, that until another entity becomes responsible for massage therapy licensing, the City does need to remain involved.

Councilmember Davis suggested he didn't believe the County will take this up as a function, but he believes the State Board of Healing Arts or one of its components would be the appropriate regulating body.

Councilmember Boultinghouse added he would like to continue the discussion as well and thanked the Jacobys for their time.

Councilmember Davis asked to hear from Chief Madden on this issue.

Chief Madden stated they have dealt with a couple of human trafficking situations and neither facility was licensed appropriately. Like every good cop hates a bad cop, bad massage therapists can reflect negatively on the entire profession. He advised that his staff reached out to other agencies to learn about their experiences and found no complaints with regards to in home massage therapy. There aren't many licenses issued in the cities he spoke to. Overland Park had the most at four and have had zero problems. They do have a stipulation that he thought we should discuss is that only occupants who live there can perform massage there. Gardener's codes enforcement officer stated the two establishments they have are wonderful to work with. Merriam has only one in home massage licensed issued in seventeen years. They require a level one home occupation license (brings traffic to a home) and require the home occupation permit before a massage establishment license. The level one home occupation permit requires approval from neighbors and then a license is issued for five years if approval is given. Leawood was the only City that the Chief contacted that does not allow it. All other cities reported no issues or concerns.

Councilmember Davis asked Chief Madden if he had inquired about restrictions imposed by an HOA versus the City. Chief Madden stated that was not a question that was asked.

Councilmember Boultinghouse thanked Chief Madden. Ms. Smith confirmed that there was consensus to continue to research this issue and to bring back information in September and all concurred. Councilmember Boultinghouse then stated that the meeting will now proceed to the beginning of the agenda.

### **Acceptance of the July 6, 2022 Finance and Administration Committee Minutes**

Minutes of the July 6, 2022 Finance and Administration Committee Meetings were provided to the Committee. There being no objections or corrections, the minutes were accepted as presented.

### **Resolution Calling Public Hearing for Mission Gateway Fifth Amended Tax Increment Financing (TIF) Redevelopment Project Plan**

Ms. Smith reminded the Committee that the City's Land Use Attorney Pete Heaven and Bond Counsel Kevin Wempe are both available online if there are questions about the next two items regarding the Gateway resolutions.

Ms. Smith informed the Committee that in February the Gateway developers presented an updated project plan and expressed their desire to reengage in conversations surrounding a restart of the

project. Since that time, conversations have been occurring between staff and the developer's team regarding this Council's values and things that are important as part of a request for incentives, specifically sustainability and affordable housing. The plans originally presented plans in February did not align with the Council's goals and objectives, but they have reworked a number of provisions, and have submitted a new TIF project plan for consideration.

The purpose of tonight's discussion is not to review the specifics of the project plan or to begin to discuss any particular request for TIF incentives. The TIF statutes require several procedural steps must occur following submission of a TIF Project Plan, and a calendar has been developed for the next several months to move the City through those discussions. The TIF Project Plan was included in the Committee packet, but the objective tonight is only to outline the first administrative step which is review of a resolution that would call a public hearing for a later date. There will be a similar resolution discussed as the next action item for the Community Improvement District (CID) petition. The draft resolution sets the date and time for the public hearing, which will be 7:00 pm on Wednesday, September 28, 2022.

Ms. Smith reviewed the entire proposed schedule for the Gateway discussions, including the September 7 Finance & Administration Committee Meeting, a September 14 work session, and a special City Council meeting on September 28. These are the meetings where the in-depth, specific conversations surrounding the terms of the plan will be held. Those meetings will also be the opportunities for the public to attend and weigh in, especially on the 28<sup>th</sup> during the public hearing process.

Councilmember Davis stated that since this is primarily a scheduling action, he recommended taking this to the Council on the Regular Agenda.

Mayor Flora reminded everyone that it is important to have full attendance for the meetings, especially the September 28 public hearing and asked for any known conflicts prior to moving forward. There were none.

Ms. Smith also wanted to remind the Committee that under the TIF statues, prior to City Council action to call the public hearing the plan had to be reviewed by the Planning Commission to determine whether it was in compliance with the City's Comprehensive Plan. The Planning Commission reviewed the Mission Gateway Fifth Amended TIF Redevelopment Project Plan at their July 25 meeting, and unanimously (9-0) found the plan in conformance with the Comprehensive Plan.

Councilmember Boultinghouse then asked Ms. Smith to present on the CID petition.

### **Resolution Calling Public Hearing for Gateway Community Improvement District (CID)**

Ms. Smith stated that the process for calling the public hearing on the Community Improvement District petition is very similar to that for the TIF Project Plan.

The CID would be an additional sales tax layered on to the businesses within the Gateway Project site. The current CID includes a 1% additional sales tax. The developer is asking for

consideration of an increase to 2%. The developer submitted a valid CID petition on July 27, 2022 which was included in the packet.

Ms. Smith reviewed the resolution calling the public hearing on the CID Petition for the same date and time as for the TIF Project Plan. Both would occur at a special City Council meeting scheduled for Wednesday, September 28, 2022 at 7:00 pm.

Ms. Smith stated the project status section on the Community Development page of the City's website has been updated with additional dates, and more information will be updated in the coming weeks.

Councilmember Kring commented that she would like a refresher during the meetings that shows differences from the original plans to what is proposed now, and is the TIF directly tied to those processes, or does it surround the whole project?

Ms. Smith stated that the incentives are considered for the project in its entirety, and not tied to specific project components.

Councilmember Davis recommended taking this to the Council as a Regular Agenda item.

Mr. Boultinghouse asked if a review of calendar dates should occur now, or would it be beneficial to wait?

Ms. Smith stated she would be happy to review the dates and process again for the benefit of the Committee and the public. Key dates related to the Gateway project include:

- August 17 (City Council) - The resolutions reviewed tonight will be on the City Council agenda for the purpose of setting the date and time for the public hearing on the TIF Project Plan and CID Petition.
- September 7 (F&A Committee) - Developer and City teams will make presentations on the request for incentives and the potential terms for consideration and a new development agreement.
- September 14 (City Council Work Session) – Continued discussion from September 7.
- September 28 (Special City Council meeting) – Because the regular September 21 City Council agenda was already full, a special meeting, focused solely on the Gateway, was calendared to make communication with the public as simple as possible.

Councilmember Boultinghouse thanked Ms. Smith for the helpful information.

Councilmember Thomas asked about the possibility that there could be a development agreement to be considered as well on September 28, and a potential TIF clock reset?

Ms. Smith stated she anticipates the Council will be considering several items on September 28, including an ordinance to consider a new TIF project plan (which requires a 2/3 majority vote of the City Council) for approval, an ordinance establishing a new CID District, and a new redevelopment agreement. If new TIF or CID plans are approved, there would also be

corresponding ordinances to terminate the existing TIF Plan and CID District. Ms. Smith also stated that staff is currently working to calendar the process for review of the revised preliminary development plan that will need to be considered by the Planning Commission and the City Council.

Councilmember Kring asked what the option is if it fails?

Ms. Smith stated that if the new plans/petitions were not approved, the Developer could re-evaluate the feasibility of the project under the existing TIF Project Plan and CID District. If they felt the project was viable under those circumstances, which they have indicated they believe it is not, a new redevelopment agreement would still need to be negotiated. If a new plans/petitions are not approved, the property isn't owned or controlled by the City, therefore it would be up to the discretion of the Developer to determine what the next move is with respect to the property.

Councilmember Davis stated he believes that because of the chronic delays the project has experienced, he has serious questions and concerns about the second phase never occurring. He would like to make sure there is adequate conversation regarding the expectations for phase two in upcoming meetings.

Ms. Smith confirmed there will be plenty of opportunity for the Council's questions to be answered. She did acknowledge that the TIF Project Plan was vague around that issue (delayed second phase or cancelled second phase). She stated that phasing issues, project milestones and tying incentives to completion of the entire project would all be factors incorporated into the redevelopment agreement. She acknowledged knowing those are specific concerns of the Council.

Mr. Boultinghouse asked for additional comments or questions specifically surrounding the scheduling for the Gateway discussion and there were none.

### **Ordinance Transferring Telecommunications Franchise from Consolidated Communications Enterprise Services, Inc. to Everfast Fiber Networks, LLC**

Assistant City Administrator Emily Randel presented communication received from Consolidated Communications Enterprises regarding the current franchise agreement to operate in our City. Consolidated Communications Enterprise Services Inc. is transferring all rights, interests, and obligations under the Ordinance from 2006 to Everfast Fiber Networks LLC during the purchase of customer base and assets later this year. The City needs to adjust the existing agreement, and the Ordinance will do so.

Councilmember Davis recommended taking this to the Council and this will be on the Consent Agenda.

### **CFD2 Special Event Permit for Street Solicitation**

City Clerk Robyn Fulks presented information on a special permit application for street solicitation received from Consolidated Fire District No. 2 for their annual Boot Block fundraiser to raise funds for the Muscular Dystrophy Association. CFD2 will solicit for donations during Labor Day weekend,

September 2-5 at the intersection of Martway Street and Lamar Avenue. This is a repeat event and a great opportunity for the City to support CFD2 and their partners. There were no questions from the Committee.

Councilmember Davis recommended the application be forwarded to Council for approval. All agreed and this will be on the Consent Agenda.

### **Resolution for City-Sponsored Festival Event**

Parks + Recreation Director Penn Almoney presented a Resolution for an additional city-sponsored event, a concert in the park to be held at Broadmoor Park from 6:30 p.m. to 8:30 p.m. on Friday, September 2. He cited Ordinance number 1172 which exempts public or City owned property from prohibition from alcohol during city-sponsored events. That Ordinance does require the City Council to pass a Resolution annually for any events where alcohol will be sold or consumed. He recommended approval of a Resolution designating the concert in the park as the last city-sponsored special event for 2022. In June, when previous events were discussed, a vendor had not been identified to coordinate the alcohol sales. Since that time, Rock Creek Brewing has expressed a willingness to participate in this event.

Councilmember Davis asked who is playing? Councilmember Thomas responded that it is a Steve Miller Experience, a tribute band.

Councilmember Davis recommended to move the Resolution to the Council on the Consent Agenda, however Councilmember Boultinghouse recommended moving to the Regular Agenda to highlight the event and all agreed.

### **Discussion Item**

#### **2023 Budget Discussion - 2023-2027 Capital Improvement Plan and Infrastructure Funds**

Ms. Smith shared that tonight's budget presentation would focus on the 2023-2027 Capital Improvement Plan (CIP) and Infrastructure Funds. She also planned to discuss the City's debt related to capital infrastructure and how the City supports large-scale projects, both on a pay-as-you-go basis and through debt financing.

Ms. Smith shared that historically the CIP is developed around three primary program areas - streets, stormwater and parks and recreation which would be discussed this evening in addition to a brief review of overall asset management, debt, and the remaining budget calendar/process.

Ms. Smith mentioned that attention has been given over the last several years to developing a better understanding of all the assets under our control as a City. She reviewed the asset categories and the various assets and facilities which are included in each. The major asset categories for Mission include: streets, stormwater, parks and recreation, public buildings, technology and vehicles and equipment. She reminded the Committee that some asset categories are handled in the 5-year CIP while others are handled in the General Fund, Equipment Reserve and Replacement Fund or other appropriate funds.

Ms. Smith share that during a Council budget survey earlier this year, several indicated a desire to understand the City's existing debt. She noted that the debt associated with acquisition of the streetlight network and the debt issued in conjunction with Facility Conservation Improvement Program is carried in the General Fund, and all other existing debt is paid from a capital infrastructure fund as it is related to either a street, stormwater or parks project. All current debt will be paid off by 2031, and all debt for streets and parks and recreation will be paid off in 2023. The stormwater debt was extended over a longer horizon because the life of these assets is much longer. Total debt service in the CIP for 2023 in the CIP is \$3.3 million.

Ms. Smith acknowledged that the Council has expressed a desire to look at additional debt financing opportunities for street projects. With confirmation of the amount allocated for the Foxridge Phase II project and history being gained through the residential street program will allow staff to come back later this year with more specific recommendations surrounding a street financing package. With renewal of the street sales tax in 2021, there is now a repayment source that could support consideration of additional debt.

Ms. Smith referenced the desire of the Council to also review potential debt scenarios to implement conceptual plans for park improvements Following The mail ballot election set for September 20 will drive that desire.

Councilmember Loudon asked if debt would be taken on as borrowing or is the City floating bonds? Ms. Smith responded that it is the same, bonds are issued, and proceeds are used to fund projects. The City then repays principal and interest on the bonds over the agreed upon repayment horizon.

Ms. Smith continued with a review of the various revenues supporting the CIP, both those controlled locally and outside funding streams as well. For stormwater, most of the revenue is generated by the City's stormwater utility fee. A stormwater utility fee is allowed by State statute and allows cities to consider what how much stormwater runoff each property contributes to the overall system, and then establishes a corresponding fee. She then reviewed the specific Mission stormwater utility fees as outlined in the memo included in the packet. Stormwater utility fees generate approximately \$2.6 million dollars annually. The ERU fee has not been adjusted since 2017 and essentially covers existing debt service obligations. The stormwater fee is set each budget cycle by the Council. As stormwater debt service drops off, more funds become available for maintenance and other project. The repayment of the Gateway special benefit assessment, about \$600,000 annually, creates the most flexibility in the stormwater fund to take on additional projects.

Ms. Smith highlighted two stormwater maintenance funding streams included in the 2023-2027 Stormwater CIP. The first is \$150,000/yr to address sink holes and other system failures requiring immediate or emergency attention. In addition, another \$250,000/yr has been plugged in starting in 2023 for other repair and maintenance projects located throughout the City. The 5-Year CIP also includes several larger projects identified through the 2022 urban channel assessment done by GBA. The highest priority projects coming out of that report have been programmed.

The Johnson County SMAC watershed study was released earlier this year, and Public Works is currently determining where we have opportunities to apply for funding.

Ms. Smith then mentioned the submission of a project development application grant through MARC's Planning Sustainable Places program. The preliminary scoring feedback was favorable, and we understand that dollars allocated for Kansas projects currently exceeds the number of projected submitted. If awarded this project will help develop plans for improvements along the Rock Creek Corridor, and once the project development process completes, there will be future opportunities to apply for implementation dollars.

Councilmember Thomas asked for a reminder about the Gateway Special assessment, what it is, and what are the risks of it not being paid?

Ms. Smith answered that when Gateway came forward in 2006, the site was in the 100-year FEMA flood plain and had not been previously. That meant that improvements had to be made to the stormwater system to bring it out of the flood plain. The City \$12 million to improve the stormwater through that site and bring it out of the floodplain with the expectation that the Developer would repay it over time. The City converted the expense to a special assessment in 2015, and it is a \$600,000.00 liability that assessed on the tax bill annually for a 20-year period. If for some reason the Developer does not stay current with their taxes, the City has to wait for repayment of that special assessment.

Ms. Smith then moved to the street program, again discussing revenues supporting street and transportation network improvements. Streets are currently funded through an allocation of State gas tax fund (\$250,000 annually), the renewed 3/8-cent street sales tax (\$1,000,000 annually), and a portion of the property tax mills collected each year. Ms. Smith noted that in the first draft of 2023 budget, approximately \$1.4 million is earmarked for street improvements.

Last year, the street CIP was in a state of flux due to the pending renewal of the street sales tax, potential cashflow needs for several larger projects and ongoing reevaluation of the residential street maintenance program. Since the successful approval of the sales tax, a residential street program has been built and the City is now looking at the best way to finance the projects it has. The County CARs program continues to be an important resource but is seeing increased competition for the funds available. Mission has had total requests decreased from initial recommendations for both the Johnson Drive project and Foxridge Phase II project.

Ms. Smith highlighted the major 2023 project, which is Foxridge Phase II with a total estimated cost of \$5.6 million dollars. The project is currently 60% designed and staff plans to bid the project at the beginning of the year. Now that we know the final CARS allocation, staff can work to develop potential debt financing scenarios. The City also has submitted an application for STP Fund through MARC for Johnson Drive from Lamar to Metcalf, a project estimated at approximately \$12 million. Other outside funding sources are being explored to determine what the City's share will be. The 5-year plan also includes funding for curb and gutter replacement, bridge inspection and repairs, principal and interest on current street related debt, and funding to refresh the 2017 Stantec study. Refreshing this data every five years or so is important to allow for any necessary adjustments to the residential street program. Ms. Smith did note that the size of



the Foxridge and Johnson Drive projects results in negative fund balances in future years, indicating the City has work to do to plan for implementation of these projects.

Councilmember Thomas asked about obtaining traffic counts to determine CARS eligibility on 51<sup>st</sup> street between Lamar and Foxridge as the situation there is deteriorating. Ms. Smith confirmed that this request is on the radar for staff.

The last CIP program category Ms. Smith reviewed was parks and recreation. This 5-Year program plan continues to address infrastructure needs at the Powell Community Center, the Mission Family Aquatic Center and the outdoor parks and trail systems network. The program is funded primarily with revenues from the dedicated 3/8-cent sales tax that sunsets in March of 2013, and 1/3 of the alcohol tax distribution from the State (\$125,000 annually).

A mail ballot election asking voters to consider renewal of the sales tax is planned for September. Discussions surrounding the renewal indicate a strong desire from the residents and the Council to ensure the focus for the next ten years is investment in the outdoor parks system. Planning processes have started for four parks, an approximately \$10.5 million in improvements have been identified. The timing of both the sales tax renewal election and the recommendations from the PCC Feasibility Study do not align well with the 2023 budget process, but Ms. Smith reminded the Committee, that the budget can be adopted and then amended later. The current 5-year plan was based on maintaining the status quo, recognizing that regardless of the outcome of the sales tax election, there are still parks and recreation needs throughout the City which will need to be addressed. Ms. Smith confirmed that the budget will be revisited following the election and the presentation of the feasibility study.

Councilmember Thomas inquired whether the project included in the Parks and Recreation CIP were generated by staff, the PRT or a combination of both.

Ms. Smith stated it is a combination. Decisions were based on greatest need in the parks system, the outdoor parks, and in the community center. If for some reason the sales tax is not renewed, we will have to have a very different conversation about parks priorities and what revenues can be dedicated to that.

Councilmember Thomas then asked if the carpet in the meeting room is the carpet listed as the line-item carpet to be replaced? Ms. Smith conferred with Mr. Almoney and confirmed it was.

Ms. Smith mentioned that renewal of sales tax could provide opportunities for debt financing to accelerate outdoor park improvements, and to leverage grant dollars. Timing of the improvements will be finalized once we have a decision on the sales tax renewal.

She then reviewed the budget calendar which includes work sessions on August 24 and August 31(also the community dialogue on the budget) and will conclude with a Special City Council meeting on September 7 where the Council will hold the required public hearings on the 2023 Budget and the intent to exceed the revenue neutral rate. The Special Meeting is necessary because the standard meeting dates do not align with the calendar prescribed by the State budget



laws requiring a public hearing to be held no sooner than August 20 and no later than September 20. Following the adoption of the budget it will be certified to the County by October 1.

#### **Department Updates**

There were no department updates.

#### **Meeting Close**

There being no further business to come before the Committee, the meeting of the Finance and Administration Committee adjourned at 9:10 p.m.

Respectfully submitted,

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Robyn L. Fulks, City Clerk

<b>City of Mission</b>	Item Number:	2
<b>ACTION ITEM SUMMARY</b>	Date:	September 7, 2022
<b>POLICE</b>	From:	Dan Madden

Action items require a vote to recommend the item to full City Council for further action.

**RE:** Adoption of the *Standard Traffic Ordinance (STO)* and *Uniform Public Offense Code (UPOC)* Code Books for 2022.

**RECOMMENDATION:** Approve the ordinances adopting the 2022 editions of the *Standard Traffic Ordinance for Kansas Cities-49th edition (STO)* and the *Uniform Public Offense Code for Kansas Cities-38th edition (UPOC)*, as published by the League of Kansas Municipalities.

**DETAILS:** The *Uniform Public Offense Code* and the *Standard Traffic Ordinance* have been published by the League of Kansas Municipalities since 1980. They are updated each legislative session and are designed to provide a comprehensive public offense ordinance and a comprehensive traffic code for Kansas cities. They do not take effect in a city until the Governing Body has passed and published ordinances incorporating them. When properly incorporated by reference, it is not necessary to publish the entirety of the codes, just the ordinances.

Currently, the police department and court are utilizing the 2021 versions of the above referenced codes. The 2022 versions became effective July 1, 2022, but we wait until the updated (printed) versions are available through the League before bringing the action item forward to the City Council. To maintain uniformity with agencies in the area, the State of Kansas, and the actions of the State Legislature, it is recommended that these codes be adopted. The City also can use the ordinances to address local issues which the City may want to handle differently.

There were minor changes and additions made to the 2022 version of the STO, which include:

- Section 30, *Driving Under the Influence of Intoxicating Liquor or Drugs; Penalties*. This section was amended to allow for waiving any portion of a fine issued if the guilty person completes court-ordered education or treatment. This does not apply to the required \$250 fine that is submitted to the State of Kansas. This provision is also amended in the DUI ordinance related to persons with Commercial Driver's Licenses (Section 30.1).
- Section 30.5, *Commercial Driver's Licenses; Diversion Agreements Not Allowed*.

Related Statute/City Ordinance:	
Line Item Code/Description:	01-30-206-03 Publications
Available Budget:	\$1,500

<b>City of Mission</b>	Item Number:	2
<b>ACTION ITEM SUMMARY</b>	Date:	September 7, 2022
<b>POLICE</b>	From:	Dan Madden

Action items require a vote to recommend the item to full City Council for further action.

This section prohibits prosecutors from diverting, or otherwise masking a conviction from appearing on a CDL holder's driving record. This does not apply to parking, weight violations, and other vehicle defect violations.

- Section 135, *Electric-Assisted Bicycles, Traffic Law Application*. This section was amended to clarify that electric-assisted bicycles are allowed on streets and highways. In addition, riders of electric-assisted bicycles are not required to have a driver's license or maintain vehicle liability insurance. Provisions exist in this section to allow cities to restrict use of electric-assisted bicycles on streets, highways, roadways, sidewalks, bicycle paths, and multi-use paths and trails.

The UPOC also amended several sections in the 2022 version. Most changes made were minor definition updates to match State Statutes. Of particular interest are:

- Section 3.2.1, *Sexual Battery*. The league added an editor's note to this section to remind cities that the Kansas Supreme Court ruled that the Kansas Offender Registration Act applies to persons convicted of sexual battery.
- Section 11.8, *Gambling*. This section was updated to exclude sports wagering from the definition of a bet.

The City has historically chosen to not adopt the following sections of the STO and UPOC due to having existing ordinances that better fit Mission's needs:

In the *Standard Traffic Ordinance* those include:

- Article 7, Section 33 relating to maximum speed limits is deleted. Maximum speed limits are regulated by the Mission Municipal Code Section 310.010
- Article 20, section 204(b) relating to fines in school zones is deleted. School zone fines are regulated by Mission Municipal Code Section 300.035.

In the *Uniform Public Offense Code* those include:

- Article 10, Sections 10.24, 10.25, and 10.26 relating to smoking prohibitions are deleted. Smoking restrictions are regulated by Mission Municipal Code Chapter 225, Article III.
- Article 11, Section 11.11 relating to animal cruelty is deleted. Animal cruelty is

Related Statute/City Ordinance:	
Line Item Code/Description:	01-30-206-03 Publications
Available Budget:	\$1,500

<b>City of Mission</b>	Item Number:	2
<b>ACTION ITEM SUMMARY</b>	Date:	September 7, 2022
<b>POLICE</b>	From:	Dan Madden

Action items require a vote to recommend the item to full City Council for further action.

regulated by Mission Municipal Code Chapter 210, Section 210.160.

- Article 11, Section 11.15 relating to dangerous animals at large is deleted. Dangerous animals at large are regulated by Mission Code, Chapter 210, Section 210.150.

Along with the printed code books, licenses for electronic versions of the STO and UPOC were purchased so that the information can be placed on the City's website and on computers in patrol vehicles and workstations used by the court and police department personnel. The cost for updated ordinances was \$979.92.

There are two ordinances that have been prepared for Council action to adopt these changes from the 2022 STO and UPOC and fully incorporate them into Mission City Code.

**CFAA CONSIDERATIONS/IMPACTS:** This Ordinance provides authority to the Police Department to enforce violations of traffic and criminal offenses, which aid in the safety, health, and welfare to both residents and visitors of the City of Mission.

Related Statute/City Ordinance:	
Line Item Code/Description:	01-30-206-03 Publications
Available Budget:	\$1,500

**CITY OF MISSION  
ORDINANCE \_\_\_\_\_**

AN ORDINANCE ADOPTING THE UNIFORM PUBLIC OFFENSE CODE, 2022 EDITION,  
AND AMENDING THE CODE OF THE CITY OF MISSION.

BE IT ORDAINED by the Governing Body of the City of Mission, Kansas:

**SECTION 1:** Section 215.010 of the Code of the City of Mission, Kansas is hereby amended by adopting the Uniform Public Offense Code, 2022 edition, as follows:

**§215.010: Incorporating Uniform Public Offense Code.**

There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Mission, Kansas, that a certain code known as the “Uniform Public Offense Code,” 2022 Edition, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such Articles, Sections, parts or portions as are hereby omitted, deleted, modified or changed. No fewer than three (3) copies of the Uniform Public Offense Code shall be marked or stamped “Official Copy as Incorporated by the Code of the City of Mission” with all Sections or portions thereof intended to be omitted or changed clearly marked to show any such omissions or change and to which shall be attached a copy of this Chapter and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge and all administrative departments of the City charged with enforcement of the Ordinance shall be supplied at the cost of the City such number of official copies of such Uniform Public Offense Code similarly marked as may be deemed expedient.

**SECTION 2:** Article 10, Sections 10.24, 10.25, and 10.26 relating to smoking prohibitions are deleted. Smoking restrictions are regulated by Mission Municipal Code Chapter 225, Article III.

**SECTION 3:** Article 11, Section 11.11 relating to animal cruelty is deleted. Animal cruelty is regulated by Mission Municipal Code Chapter 210, Section 210.160.

**SECTION 4:** Article 11, Section 11.15 relating to dangerous animals at large is deleted. Dangerous animals at large are regulated by Mission Code, Chapter 210, Section 210.150.

**SECTION 5:** This Ordinance shall be in full force and effect after publication according to law.

PASSED AND APPROVED by the City Council this 21st day of September 2022.

APPROVED by the Mayor this 21st day of September 2022.

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Solana Flora, Mayor

ATTEST:

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Robyn Fulks, City Clerk

APPROVED BY:

PAYNE & JONES, CHARTERED

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David K. Martin, City Attorney  
11000 King  
Overland Park, KS 66210  
(913) 469-4100  
(913) 469-8182

**CITY OF MISSION  
ORDINANCE \_\_\_\_\_**

AN ORDINANCE ADOPTING THE STANDARD TRAFFIC ORDINANCE 2022 EDITION  
AND AMENDING THE CODE OF THE CITY OF MISSION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MISSION, KANSAS  
AS FOLLOWS:

**SECTION 1:** The Traffic Code of the City of Mission, Chapter 300, Section 300.010 is hereby amended as follows:

**CHAPTER 300: GENERAL PROVISIONS**

**§300.010: INCORPORATING STANDARD TRAFFIC ORDINANCE**

There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Mission, Kansas, that a certain “Standard Traffic Ordinance for Kansas Cities,” 2022 Edition, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such Articles, Sections, parts or portions as are hereby omitted, deleted, modified or changed. No fewer than three (3) copies of the Standard traffic Ordinance shall be marked or stamped “Official Copy as Incorporated by the Code of the City of Mission” with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omissions or change and to which shall be attached a copy of this Chapter and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge and all administrative departments of the City charged with enforcement of the Ordinance shall be supplied at the cost of the City, such number of official copies of such Standard Traffic Ordinance similarly marked as may be deemed expedient.

**SECTION 2:** Article 7, Section 33 relating to maximum speed limits is deleted. Maximum speed limits are regulated by the Mission Municipal Code Section 310.010.

**SECTION 3:** Article 20, Section 204(b) of said Standard Traffic Ordinance relating to fines in school zones is hereby deleted. School zone fines are regulated by Mission Municipal Code Section 300.035.

**SECTION 4:** This Ordinance shall take effect and be in full force from and after publication as required by law.

PASSED AND APPROVED by the City Council this 21st day of September 2022.

APPROVED by the Mayor this 21st day of September 2022.

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Solana Flora, Mayor

ATTEST:

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Robyn Fulks, City Clerk

APPROVED BY:

PAYNE & JONES, CHARTERED

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David K. Martin, City Attorney  
11000 King  
Overland Park, KS 66210  
(913) 469-4100  
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## 2022 Changes to the Standard Traffic Ordinance and Uniform Public Offense Code

By Nicole Proulx Aiken, Deputy General Counsel, League of Kansas Municipalities

The Legislature made several changes to statutes affecting the STO and UPOC this session. This article provides a list of those changes.

### — Changes to the STO

#### Section 1 Definitions.

The following definitions were amended: All-Terrain Vehicle (SB 101), Electric-Assisted Bicycle (SB 101), Electric-Assisted Scooter (SB 101), Motor Vehicle (SB 101), Motorcycle (SB 101), and Motorized Bicycle (SB 101).

#### **Section 10.1. Funeral Processions and Sec. 119. Parades and Processions.**

The Legislature did not make changes to any statutes affecting funeral processions or parades. The League, however, added chief “of police or designee” to these sections to provide more flexibility for reviewing them.

#### **Section 30. Driving Under the Influence of Intoxicating Liquor or Drugs; Penalties.**

HB 2377, Section 4, amends the penalties for driving under the influence; allows courts to waive any portion of a fine, except for the \$250 required to be remitted to the state treasurer, if the individual completes a court-ordered education or treatment; clarifies that amending or dismissing a charge is permitted if there is not sufficient admissible evidence to support a conviction beyond a reasonable doubt; and modifies the definition for “imprisonment.”

#### **Section 30.1. Driving Commercial Motor Vehicle Under the Influence of Intoxicating Liquor or Drugs; Penalties.**

HB 2377, Section 9, amends the penalties for driving a commercial motor vehicle under the influence; allows courts to waive any portion of a fine, except for the \$250 required to be remitted to the state treasurer, if the individual completes a court-ordered education or treatment; clarifies that amending or dismissing a charge is permitted if there is not sufficient admissible evidence to support a conviction beyond a reasonable doubt; and modifies the definition for “imprisonment.”

#### **Section 30.5. Commercial Driver’s Licenses; Diversion Agreements Not Allowed.**

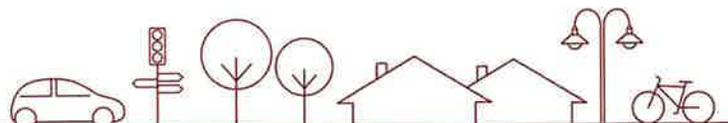
HB 2377, Section 10, prohibits prosecuting attorneys from masking, deferring imposition of judgment, or giving an individual a diversion “that would prevent a commercial learner’s permit or commercial driver’s license holder’s conviction from appearing on the CDLIS driver record of a local traffic law that occurred in any type of motor vehicle.” This prohibition does not apply to parking, vehicle weight, or other vehicle defect violations.

#### **Section 126.1.1. Display of License Plate.**

Subsection (e) requiring law enforcement officers to issue a warning for certain violations expired on January 1, 2022, and has been deleted.

#### **Section 135. Electric-Assisted Bicycles, Traffic Law Application.**

SB 101, Section 9, amends the state statute on electric-assisted bicycles. The amendments clarify electric-assisted bicycles are allowed on streets, highways, etc. The bill provides that individuals do not need a driver’s license or vehicle liability insurance to ride an electric-assisted bicycle. The bill also exempts electric-assisted bicycles from the motor vehicle definition. The League amended the STO to mirror state law but, under K.S.A. 8-1592b(f)(2), a city may adopt an ordinance further restricting and governing the operation of electric-assisted bicycles on streets, highways, roadways, sidewalks, sidewalk areas, bicycle or multi-use paths, or trail or trail networks.



# — Changes to the UPOC

## Section 1.1. Definitions.

The League deleted the definitions for advance voting site, because it is in Sec. 7.14, and maliciously, because that term is not used in the UPOC. The definitions for controlled substance and law enforcement officer were also updated to mirror state law. Other definitions that were amended include: Dwelling (HB 2508), Motor Vehicle (SB 101), Possession (HB 2508), Public Employee (HB 2508), Vehicle Dealer (SB 101), Wildlife (SB 101), and Written Instrument (HB 2508).

## Section 3.2.1. Sexual Battery.

The League updated the editor's note in light of *City of Shawnee v. Adem*, 214 Kan 12 (2021). There, the Kansas Supreme Court held the Kansas Offender Registration Act applies to any person convicted of sexual battery under Sec. 3.2.1. of the UPOC.

## Section 6.1. Theft.

SB 483, Section 1, amends the theft statute to address the theft of remote service units. The League also amended the editor's note to include changes made by SB 408 and HB 2492.

## Section 6.5. Criminal Deprivation of Property.

The League added the motor vehicle definition to this section to match state law.

## Section 6.18. Motor Vehicle Dealers; Selling Motor Vehicles Without a License.

SB 101, Section 10, amends the definitions of vehicle and motor vehicle, exempting electric-assisted bicycles from those definitions.

## Section 7.5. Distribution of Unattributed Applications for Advance Voting Ballots.

The League deleted this provision from the UPOC in light of *VoteAmerica v. Schwab*, 2021 WL 5918918 (D. Kan. 2021).

## Section 7.14. Electioneering.

HB 2138, Section 7, clarifies that the electioneering offense does not apply to certain individuals, such as certain county election office employees while they are performing their duties as employees.

## Section 7.15. Intimidation of a Witness or Victim.

The League added the definition civil injury or loss to match state law.

## Section 9.9.5. Unlawful Possession of a Simulated Substance.

The League added the definition of simulated controlled substance to this section.

## Section 10.30. Operating an Aircraft Under the Influence, Section 10.30.1 Same; Preliminary Breath Test, and Section 10.30.2. Same; Definitions.

HB 2377, Sections 1-4 added a new offense for operating an aircraft under the influence. The League added this offense to Sections 10.30–10.30.2.

## Section 11.8. Gambling.

SB 84, Section 20, excludes sports wagering from the definition of bet.

In addition, to the changes described above, the League updated several citations to state law and changed “his or her” and “her or she” to “their” or “they” to be more inclusive. 🗳️

🗳️ **Nicole Proulx Aiken** is the Deputy General Counsel for the League of Kansas Municipalities. She can be reached at [nproulxaiken@lkm.org](mailto:nproulxaiken@lkm.org).

**NOW AVAILABLE**

**STO / UPOC**  
*Standard Traffic Ordinance / Uniform Public Offense Code*

GO TO THE LEAGUE WEBSITE  
**SERVICES → PUBLICATIONS → SEARCH STO OR UPOC**  
TO FIND THE MOST UP-TO-DATE STANDARD TRAFFIC ORDINANCE  
AND UNIFORM PUBLIC OFFENSE CODE.

<b>City of Mission</b>	Item Number:	3
<b>ACTION ITEM SUMMARY</b>	Date:	September 7, 2022
<b>Administration</b>	From:	Emily Randel

Action items require a vote to recommend the item to full City Council for further action.

**RE:** Modifications to Mission’s licensing requirements for Massage Establishments and Massage Therapists

**RECOMMENDATION:** Amend Mission Municipal Code Chapter 620.

**DETAILS:** The City recently received an inquiry from two Mission residents who are licensed massage therapists regarding massage establishment and massage therapist licensing as a home occupation. The Council discussed the issue at the August committee meeting.

Kansas is one of only four states that does not regulate, certify or license massage therapists at the state level. The requirements are set by each City and the City Council indicated that it would reasonable to reevaluate the current code. Several modifications to the current code are recommended and summarized below.

Mission Code History Related to Massage Therapy:

- The majority of existing code was drafted in 1994; Modified in 2000
- Modified in 2006 eliminating specific density and dispersion requirements for massage establishments and eliminating the requirement to permit all employees of a massage establishment, even support personnel or those performing unrelated functions. Also updated industry terms and clarified inspection and enforcement roles within the City.

Allowing Massage Therapy as a Home Occupation

Currently, Mission’s Municipal Code regulating massage therapy only allows for massage therapy to be performed on commercial business premises (Section 620.240 (2)(B)).

It is staff’s opinion that massage therapy is a suitable practice for home occupations when considering the impacts to the neighborhood in terms of noise, traffic, etc. Though staff received only a limited number of responses from other cities who do allow massage as home occupations, the feedback that was shared was that the numbers of permits are modest, four current permits in Overland Park, for example.

*Johnson County Cities Allowing Massage Therapy as a Home Occupation*

Allows:	Gardner, Lenexa, Merriam, Overland Park, Prairie Village, Roeland Park, Westwood
Does not Allow:	Leawood, Mission, Olathe, Shawnee
N/A (Doesn’t currently regulate):	De Soto, Edgerton, Fairway, Mission Woods, Westwood Hills

Related Statute/City Ordinance:	Chapter 620
Line Item Code/Description:	N/A
Available Budget:	N/A

<b>City of Mission</b>	Item Number:	3
<b>ACTION ITEM SUMMARY</b>	Date:	September 7, 2022
<b>Administration</b>	From:	Emily Randel

Action items require a vote to recommend the item to full City Council for further action.

The recommendations would allow massage therapy at a licensed massage establishment either in a commercial business setting or as permitted under a Home Occupation Permit or in an in-office or private residence setting at the direction of and under the direct supervision of a licensed healing arts practitioner with a current massage establishment license.

Application requirements:

Staff also recommends adjusting application requirements, removing the requirement of proof that an applicant is free of any contagious or communicable diseases, clarifying which items are required for an initial application and which are required for a renewal application.

Expansion of Criminal Violations:

Staff recommends modifications to clarify and update State Statutes included under reasons a Business Permit or Massage Therapy License may be revoked or suspended.

Process Change for Issuance and Revocation of Permits:

Staff recommends shifting the approval of massage establishment applications away from the Governing Body and to the staff level with the City Clerk reviewing the application in conjunction with the Police and Community Development Departments. The recommended authorizes the Police Chief to revoke or suspend a permit rather than the Governing Body as current code language states.

Modernization of Code Language:

Staff recommends several changes to the current code language, in particular related to gender inclusion.

**CFAA CONSIDERATIONS/IMPACTS:** The Communities for All Ages philosophy supports making a wide range of health and social services available to residents. Creating flexibility and choice for both providers and residents in the provision of health or social services can generate community value.

Related Statute/City Ordinance:	Chapter 620
Line Item Code/Description:	N/A
Available Budget:	N/A

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE PROVIDING FOR REVISIONS TO CHAPTER 620 OF THE CODE OF THE CITY OF MISSION, KANSAS, REGARDING MASSAGE ESTABLISHMENTS.**

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MISSION, KANSAS AS FOLLOWS:

**SECTION 1: Section 620.010 IS AMENDED AS FOLLOWS:**

As used in this Chapter, the following terms shall have these prescribed meanings:

**BUSINESS PREMISES**

Those premises where a private or public commercial enterprise is conducted, but specifically not to include businesses conducted in a private residence, premises used for joint residential and business purposes, hotels and motels.

**EMPLOYEE**

Any person, other than massage therapist who renders any service to a permittee under this Chapter, who receives compensation from the permittee or patron.

**IN-OFFICE MASSAGE THERAPY**

Massage that is conducted in the business premises of a massage client and is limited to massage therapy applied only while the massage client is fully clothed.

**MASSAGE**

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. Massage as defined herein does not include the touching in any fashion of human genitalia.

**MASSAGE ESTABLISHMENT**

Any establishment having a place of business where any person engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in "Massage" above for compensation but does not include "in-office massage therapy establishments".

**MASSAGE THERAPIST**

Any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.

**PATRON**

Any person 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/she will pay money or give any other consideration therefor, provided a person under the age of twelve (12) may utilize or receive massage therapy from a licensed massage therapist if accompanied at all times during such service by a parent or legal guardian and, provided further, a person ages twelve (12) through eighteen (18) may also utilize or receive such massage therapy if a parent or legal guardian has authorized such therapy in writing.

**RECOGNIZED SCHOOL**

Any school or institution of learning accredited or licensed in the State in which it operates by the respective Board of Education or other governmental equivalent, which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a course of study not less than five hundred (500) hours to be given in not more than twenty-four (24) 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.

**SECTION 2: Section 620.020 IS AMENDED AS FOLLOWS:**

**Section 620.020 Permit Required.**

No person, firm, partnership, association or corporation shall operate an establishment, as defined herein, without first having obtained a permit therefor issued by the City Clerk of this City. Such permit shall be valid only from July first (1st) to June thirtieth (30th) of each calendar year.

**SECTION 3: SECTION 620.030 is REPEALED IN ITS ENTIRETY.**

**SECTION 4: SECTION 620.035 IS ADDED AS FOLLOWS**

**Section 620.035 Restriction to licensed premises.**

- A. All massage therapy, other than in-office massage therapy, provided under the provisions of this chapter, shall be conducted on the premises of a licensed massage therapy establishment.
- B. Exceptions.
1. Massage therapy may be conducted at a private residence that has been approved by the City Clerk and Community Development Director or designee for a Home Occupation permit subject to the conditions associated with such home occupation permit, as provided in Chapter 605, Article IV. When operating under a Home Occupation permit, only individuals residing in the home will be allowed to operate on premise.
  2. Massage therapy may be conducted at a private residence at the direction of and under the direct supervision of a licensed healing arts practitioner.

**SECTION 5: SECTION 620.040 IS AMENDED AS FOLLOWS:**

**Section 620.040 Massage Therapist Permit Required.**

No person shall perform massage therapy unless he/she has a valid massage therapists permit issued by the City pursuant to the provisions of this Chapter.

**SECTION 6: SECTION 620.050 IS AMENDED AS FOLLOWS:**

**Section 620.050 Application For Business Permit — Fees.**

- A. Every applicant for a permit to maintain, operate or conduct any establishment covered by this Chapter shall file an application with the City Clerk and pay an initial filing fee as set out in Section 103.050(F)(1) of this Code which shall not be refundable or prorated. Every applicant for a renewal permit to maintain, operate or conduct any establishment covered by this Chapter shall file an application with the City Clerk and pay a renewal filing fee calculated on the basis of the square footage occupied by the business without regard to use, including outside area, in accordance with the schedule set out in Section 103.050(F)(2) of this Code.
- B. The initial and renewal 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 ten percent (10%) of the stock of the corporation, any partner, when a partnership is involved, and any manager.
- C. If applicable, any applicant for a permit shall provide a current complete description of and legible floor plan(s) of the business premises and storage areas and containing all areas in which the applicant desires to conduct the business.
  - D. Each applicant shall provide a complete description for any other business to be operating on the same premises or on adjoining premises owned or controlled by the applicant.
  - E. In addition to the foregoing, any applicant for a permit shall furnish the following information with the original application and any renewal application:
    - 1. Written proof that the applicant is at least eighteen (18) years old.
    - 2. Two (2) portrait photographs at least two (2) inches by two (2) inches and fingerprints taken by the Police Department of the City.
    - 3. Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application.
    - 4. The massage, in-office massage therapy establishment, studio business license history of the applicant; 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 or occupation subsequent to such action of suspension or revocation.
    - 5. Any criminal convictions, except minor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and circumstances thereof.
    - 6. 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.
    - 7. Applicants for renewal of an existing license need provide only that information or documentation necessary to insure up-to-date renewal application processing.

**SECTION 7: SECTION 620.060 IS AMENDED AS FOLLOWS:**

**Section 620.060 Application For Massage Therapist Permits — Fees.**

- A. Any person employed to perform any services in a massage establishment or in-office massage therapy establishment, as defined herein, shall file a written application with the City Clerk and pay an annual filing fee as set out in Section 103.050(F)(3) of this Code which shall not be refundable or prorated. This fee shall cover the cost of processing the application to include the FBI fingerprint fee and the KBI fingerprint fee. Only one (1) massage therapist permit shall be required regardless of the activity or activities permitted by this Chapter.
- B. The application for a massage therapist permit application shall contain the following:
  - 1. Name, address and telephone number.
  - 2. Two (2) portrait photographs at least two (2) inches by two (2) inches.
  - 3. Applicant's weight, height, color of hair and eyes and fingerprints taken by the Mission Police Department.
  - 4. Written evidence that the applicant is at least eighteen (18) years old.
  - 5. Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application.
  - 6. Whether such person has ever been convicted of any crime except minor traffic violations. If any person mentioned in this Subsection has been so convicted, a statement must be made giving the place and court in which the conviction was obtained and the sentence imposed as a result of such conviction.

7. 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.
- C. The application for a massage therapist permit renewal application shall contain the following:
1. Name, address and telephone number.
  2. Two (2) portrait photographs at least two (2) inches by two (2) inches.
  3. Whether such person has ever been convicted of any crime except minor traffic violations since the time of the last issued license. If any person mentioned in this Subsection has been so convicted, a statement must be made giving the place and court in which the conviction was obtained and the sentence imposed as a result of such conviction.
  4. 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.

**SECTION 8: SECTION 620.070 IS AMENDED AS FOLLOWS:**

Section 620.070 Education Requirements — Massage Therapist.

To be eligible for a massage therapist license, an applicant shall provide proof of the following at the time of application:

1. Educational requirements. An initial applicant shall provide proof that the applicant:
  - a. Has successfully completed a course of instruction made up of not less than 500 hours of instruction in the theory, method or practice of massage from a National Certification Board for Therapeutic Massage and bodywork (NCBTMB) approved school; or
  - b. Has passed the national certification examination for therapeutic massage and bodywork.
2. CPR and first aid. An applicant upon initial application and upon renewal shall provide proof of current certification in first aid and in cardiopulmonary resuscitation (CPR) by the American Heart Association or the equivalent.
3. Continuing education requirements. An applicant upon initial application and upon renewal shall provide proof of compliance with continuing education requirements of the NCBTMB or the American Massage Therapy Association (AMTA) in effect at the time of application.

**SECTION 9: SECTION 620.090 IS AMENDED AS FOLLOWS:**

Section 620.090 **Issuance of Business Permit.**

- A. After the filing of an application in the proper form, the City Clerk shall examine the application and after such examination shall issue a permit for a massage establishment unless the City Clerk finds that:
1. 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.
  2. 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 property maintenance regulations.
  3. The applicant, if an individual, or any of the stockholders holding more than ten percent (10%) 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, having been convicted of or diverted on:

- a. Felony which involves the use, or threat of use, of physical force;
  - b. Felony not involving the use, or threat of use, of physical force that is less than five years old from date of application;
  - c. Any offense involving "an unlawful sex act" which shall be defined as: rape, indecent liberties with a child, aggravated indecent liberties with a child, criminal sodomy, aggravated criminal sodomy, lewd and lascivious behavior, sexual battery or aggravated sexual battery, as each is defined by state statutes;
  - d. Obscenity;
  - e. Selling Sexual Relations as defined by K.S.A. 21-6419, Promoting the Sale of Sexual Relations as defined by K.S.A. 21-6420, or Buying Sexual Relations as defined by K.S.A. 21-6421, or any other conviction similar in nature which occurred in another jurisdiction.
  - f. Solicitation of a lewd or unlawful act;
  - g. Prostitution; or
  - h. Pandering or other sexually related offense.
4. 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.
  5. The applicant has had a massage establishment, 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 (5) years prior to the date of the application.
  6. 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 eighteen (18) years.
  7. 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 Chapter.
- B. 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.
- C. If a massage therapy establishment license is denied, the applicant shall be notified via the contact method(s) as set forth on the application, and the notice shall state the basis for the denial. Any applicant aggrieved by the denial may seek judicial review to the county district court as provided by law.

**SECTION 10: SECTION 620.100 is AMENDED AS FOLLOWS:**

**Section 620.100 Issuance of Massage Therapist Permit.**

- A. The City Clerk shall issue a massage therapist permit within twenty-one (21) days following application, unless he/she finds that:
1. The application for the massage therapist permit has been convicted of or diverted on:
    - a. Felony which involves the use, or threat of use, of physical force;
    - b. Felony not involving the use, or threat of use, of physical force that is less than five years old from date of application;
    - c. Any offense involving an "unlawful sex act" which shall be defined as: rape, indecent liberties with a child, aggravated indecent liberties with a child, criminal sodomy, aggravated criminal sodomy, lewd and lascivious behavior, sexual battery or aggravated sexual battery, as each is defined by state statutes;
    - d. Obscenity;

- e. Selling Sexual Relations as defined by K.S.A. 21-6419, Promoting the Sale of Sexual Relations as defined by K.S.A. 21-6420, or Buying Sexual Relations as defined by K.S.A. 21-6421, or any other conviction similar in nature which occurred in another jurisdiction.
  - f. Solicitation of a lewd or unlawful act;
  - g. Prostitution; or
  - h. Pandering.
2. 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.
  3. 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.
  4. The applicant has not successfully completed a resident course of study or learning from a recognized school as required under the provisions of this Chapter.

**SECTION 11: SECTION 620.110 is AMENDED AS FOLLOWS:**

**Section 620.110 Revocation or Suspension of Business Permit.**

- A. Any permit issued for a massage establishment may be revoked or suspended by the Police Chief after a public hearing before the Police Chief where it is found that any of the provisions of this Chapter are violated or the provisions for issuance of any permit are violated or where the permittee or any employee of the permittee, including a massage therapist, has been convicted of any offense found in Sections **620.080** and **620.090** herein and the permittee has actual or constructive knowledge of the violation or conviction or, in any case, where the permittee or licensee refused to permit any duly authorized Police Officer or health inspector of the City to inspect the premises or the operations of the permittee or if the permittee or its employees are determined to have a communicable disease.
- B. The Police Chief, before revoking or suspending any permit, shall give the permittee at least ten (10) days' written notice of the charges against him/her/them and the opportunity for a public hearing before the Police Chief, at which time the permittee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

**SECTION 12: SECTION 620.120 is AMENDED AS FOLLOWS:**

**Section 620.120 Revocation or Suspension of Massage Therapist Permit.**

- A. A massage therapist permit issued by the City Clerk shall be revoked or suspended after a public hearing before the Police Chief or a designated representative where it appears that the employee has been convicted of any offense enumerated in Section **620.080** or **620.100** or for violation of any of the provisions of this Chapter to include the application standards.
- B. The City Clerk, before revoking or suspending any employee permit, shall give the employee at least ten (10) day written notice of the examination into his/her conviction record and the opportunity for a public hearing before the Police Chief or his/her designated representative, at which hearing the relevant facts regarding the occurrence of the conviction shall be determined.
- C. All revocations or suspensions by the City Clerk are appealable to the Governing Body within ten (10) days of the revocation or suspension, provided the appeal must be in writing and delivered to the City.

**SECTION 13: SECTION 620.130 IS REPEALED IN ITS ENTIRETY**

**SECTION 14: SECTION 620.135 IS ADDED AS FOLLOWS:**

**Section 620.135 Processing and Investigation of Application**

A. Upon receipt of an application for a massage therapy establishment license, the City Clerk shall immediately provide copies of such application to the Police Chief and Community Development Director. The Police Chief and Community Development Director shall report the results of their investigations, as set forth herein, to the City Clerk in a timely manner such that the City Clerk may comply with the applicable time restrictions for issuance or denial of a license.

- A. It shall be the duty of the Police Chief to investigate the application and to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued a massage therapy establishment license.
- B. It shall be the duty of the Community Development Director or designee to determine whether the structure where the massage therapy establishment business is proposed to be located complies with the requirements of the City's applicable health, zoning, building and property maintenance codes.

**SECTION 15: SECTION 620.150 IS AMENDED AS FOLLOWS:**

**Section 620.150 Operation Regulations.**

- A. The operation of any such in-office massage therapy establishment or massage establishment shall be subject to the following regulations:
  1. License to be posted. A massage therapy establishment license shall, at all times, be displayed by the licensee in an open and conspicuous place on the premises where the licensed business is conducted.
  2. Limited to premises. It is unlawful to operate a massage therapy establishment at any other premises than specified in the license.
  3. Supervision. The licensee shall have the premises supervised at all times when open for business. The licensee or a person employed by the business shall be present and personally supervise the premises and shall not violate, or permit others to violate, any applicable provision of this chapter. The violation of any provision of this division by any employee of the licensee shall be deemed a violation by the licensee.
  4. Conduct of premises. A massage therapy establishment licensee shall at all times be responsible for the conduct of business on the licensed premises and for any act or conduct of the licensee's employees which constitutes a violation of the provisions of this chapter. Any violation of any city, state or federal laws committed on the licensed premises by any such licensee or employee affecting the eligibility or suitability of such person to hold a license may be grounds for suspension or revocation of a license.
  5. Massage therapist license required.
    - a. It is unlawful for a massage therapy establishment licensee to personally conduct massage therapy or in-office massage therapy unless the licensee holds a valid massage therapist license issued by the City.
    - b. It is unlawful for any massage therapy establishment licensee to permit or allow massage therapy on the licensed premises by anyone other than a licensed massage therapist.

6. Hours. Such business shall be closed and operations shall cease between the hours of 8:30 P.M. and 6:00 A.M. each day except that a massage therapist may conduct in-office massage therapy on business premises having bona fide evening and night shifts and a massage therapist who is operating pursuant to a home occupation license shall be subject to the hours restrictions set forth in applicable city home occupation regulations.
7. Customer number. It is unlawful for massage therapy establishment licensee to allow multiple customers to be treated in the same room at the same time unless it is two people being treated on two separate massage tables or chairs by two separate massage therapists.
8. Danger to safety, health. No service shall be given which is clearly dangerous or harmful in the opinion of the Code Inspector to the safety or health of any person and after such notice in writing has been delivered to the licensee from such Director.
9. 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 Chapter or during in-office massage therapy.
10. Conduct of premises. All operators permitted under the provisions of this Chapter shall at all times be responsible for the conduct of business on their permitted premises and for any act or conduct of his/her employees which constitutes a violation of the provisions of this Chapter. Any violation of the City, State or Federal laws committed on the permitted premises by any such permittee or employee affecting the eligibility or suitability of such person to hold a license or permit may be grounds for suspension or revocation of same.
11. Every portion of a permitted establishment, including appliances and personnel, shall be kept clean and operated in a sanitary condition.
12. Dressing rooms. Licensees shall provide a private dressing room on the licensed premises.
13. All employees and massage therapists must be modestly attired. Diaphanous, flimsy, transparent, form-fitting or tight clothing is prohibited. Clothing must cover the employees' and massage therapist's chests at all times.
14. The private parts of patrons must be covered by towels, cloths or undergarments when in the presence of an employee or massage therapist. Any contact with a patron's genital area is strictly prohibited.
15. 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.
16. Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned after each use.
17. Locked premises. No massage therapy may be offered or provided within any cubicle, room, booth or other a within the licensed premises which is fitted with a door than cannot be unlocked from the inside.

**SECTION 16: SECTION 620.210 IS AMENDED AS FOLLOWS:**

**Section 620.210 Applicability To Existing Businesses.**

The operators of any existing massage establishment are required to comply with all provisions of this Chapter.

**SECTION 17: SECTION 620.220 IS AMENDED AS FOLLOWS:**

**Section 620.220 Exceptions.**

The provisions of this Chapter shall not apply to hospitals, nursing homes, sanitariums or persons holding an unrevoked certificate to practice the healing arts, persons holding an unrevoked license to practice as a registered professional nurse under state law working under the direction of any licensed healing arts practitioner, persons licensed to practice as a physical therapist under state law, or persons working under the direction and supervision of any licensed healing arts practitioner or such persons or in any such establishment, nor shall this Chapter apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked and unsuspended license or certificate of registration issued by this State.

**SECTION 18: SECTION 620.240 IS AMENDED AS FOLLOWS:**

**Section 620.240 Restriction of Business To Premises.**

- A. All business or activity provided for under this Chapter (not to include in-office massage therapy) shall be conducted and performed on the premises of a licensed massage therapy establishment, provided massage therapy may be conducted in a private residence under the following conditions:
  1. If done at the direction of a licensed healing arts practitioner; or
  2. If done at the written request of a person, on a form provided by City Clerk that shall provide the name and address of the requesting person, the date and time of the service and the fees charged for the service. When private residence massage therapy is offered, whether by telephone, in person or in writing, the person offering such service must state clearly that they are a licensed massage therapist or that the service will be performed by a licensed massage therapist and that prior to any service being provided the person requesting the service will be required to sign a form requesting the service. All such written requests shall be kept by the licensed massage therapy establishment for a period of one (1) year and shall be produced for inspection when requested by any City official. Private residence massage therapy shall not be conducted between the hours of 10:00 P.M. and 9:00 A.M.
- B. All licensed massage therapy establishments shall be operated from a commercial business premise. Sole practitioners (therapists who work alone), are required to have both a massage therapist permit and massage therapy establishment permit and to work from a licensed premise.
- C. Massage therapy is not permitted in the guest rooms of hotels unless the hotel is licensed as a massage therapy establishment and the massage therapy is conducted by a licensed massage therapist employed by the hotel.

**SECTION 19: THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE AND AFTER PUBLICATION AS REQUIRED BY LAW.**

**PASSED AND APPROVED** by the City Council this 21st day of September 2022.

**APPROVED** by the Mayor this 21st day of September 2022.

(SEAL)

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Solana Flora, Mayor

ATTEST:

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Robyn Fulks, City Clerk

APPROVED AS TO FORM:  
PAYNE & JONES, CHTD.

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David K. Martin, City Attorney  
11000 King, Suite 200  
P. O. Box 25625  
Overland Park, KS 66225-5625  
Tel: (913) 469-4100  
Fax: (913) 469-8182

*The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.*

## Chapter 620

# Massage Establishments

Section 620.010 **Definitions.**

[Ord. No. 882 §1, 6-8-1994; CC 2000 §5-601; Ord. No. 1218 §1, 12-13-2006]

As used in this Chapter, the following terms shall have these prescribed meanings:

### **BUSINESS PREMISES**

Those premises where a private or public commercial enterprise is conducted, but specifically not to include businesses conducted in a private residence, premises used for joint residential and business purposes, hotels and motels.

### **EMPLOYEE**

Any person, other than massage therapist who renders any service to a permittee under this Chapter, who receives compensation from the permittee or patron.

### **IN-OFFICE MASSAGE THERAPY**

Massage that is conducted in the business premises of a massage client and is limited to massage therapy applied only ~~above-while~~ the massage client's ~~waist~~ is fully clothed.

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### **MASSAGE**

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. Massage as defined herein does not include the touching in any fashion of human genitalia.

### **MASSAGE ESTABLISHMENT**

Any establishment having a place of business where any person engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in "Massage" above for compensation but does not include "in-office massage therapy establishments".

### **MASSAGE THERAPIST**

Any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.

### **PATRON**

Any person 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/she will pay money or give any other consideration therefor, provided a person under the age of twelve (12) may utilize or receive massage therapy from a licensed massage therapist if accompanied at all times during such service by a parent or legal guardian and, provided further, a person ages twelve (12) through eighteen (18) may also utilize or receive such massage therapy if a parent or legal guardian has authorized such therapy in writing.

### **RECOGNIZED SCHOOL**

Any school or institution of learning accredited or licensed in the State in which it operates by the respective Board of Education or other governmental equivalent, which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a course of

study not less than five hundred (500) hours to be given in not more than twenty-four (24) 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.

**Section 620.020 Permit Required.**

**[Ord. No. 882 §2, 6-8-1994; CC 2000 §5-602; Ord. No. 1218 §1, 12-13-2006]**

No person, firm, partnership, association or corporation shall operate an ~~in-office massage therapy establishment or massage~~ establishment, as defined herein, without first having obtained a permit therefor issued by the ~~Governing Body~~City Clerk of this City. ~~A separate permit shall be required for each and every separate place of business conducted by any one (1) permittee.~~ Such permit shall be valid only from July first (1st) to June thirtieth (30th) of each calendar year. ~~provided individuals conducting in-office massage therapy as defined by this Article shall be required to hold only one (1) permit, provided further, that individuals conducting massage on permanent premises in addition to providing in-office massage therapy must hold a separate permit for in-office massage therapy and for the massage establishment conducted on permanent premises.~~

**Section 620.030 Limitations On In-Office Massage Therapy Permits.**

**[Ord. No. 882 §3, 6-8-1994; CC 2000 §5-603; Ord. No. 1218 §1, 12-13-2006]**

~~The authority granted a permittee issued an in-office massage therapy permit is limited to the authority to conduct massage therapy on the non-permanent office premises of the permittee's clients and specifically does not include the authority to conduct massage therapy at a permanent premises operated by the permittee, provided the permittee must have a permanent business office located within the City. If the permittee desires to conduct massage therapy both on the non-permanent office premises of the permittee clients and a permanent premises operated by the permittee, the applicant must obtain a separate permit for in-office massage therapy and a massage establishment permit by submitting separate applications for each, provided only one (1) permit fee shall be charged for both applications.~~

**Section 620.035 Restriction to licensed premises.**

a. All massage therapy, other than in-office massage therapy, provided under the provisions of this chapter, shall be conducted on the premises of a licensed massage therapy establishment.

b. Exceptions.

1. Massage therapy may be conducted at a private residence that has been approved by the City Clerk and Community Development Director or designee for a Home Occupation permit subject to the conditions associated with such home occupation permit, as provided in Chapter 605, Article IV. When operating under a Home Occupation permit, only individuals residing in the home will be allowed to operate on premise.

2. Massage therapy may be conducted at a private residence at the direction of and under the direct supervision of a licensed healing arts practitioner.

**Section 620.040 Massage Therapist Permit Required.**

**[Ord. No. 882 §4, 6-8-1994; CC 2000 §5-604; Ord. No. 1218 §1, 12-13-2006]**

No person shall perform massage therapy ~~or in-office massage therapy~~ unless he/she has a valid massage therapist's permit issued by the City pursuant to the provisions of this Chapter.

**Section 620.050 Application For Business Permit — Fees.**

**[Ord. No. 882 §5, 6-8-1994; CC 2000 §5-605; Ord. No. 1218 §1, 12-13-2006]**

A. Every applicant for a permit to maintain, operate or conduct any establishment covered by this Chapter shall file an application with the City Clerk and pay an initial filing fee as set out in Section 103.050(F)(1) of this Code which shall not be refundable or prorated. Every applicant for a renewal

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permit to maintain, operate or conduct any establishment covered by this Chapter shall file an application with the City Clerk and pay a renewal filing fee calculated on the basis of the square footage occupied by the business without regard to use, including outside area, in accordance with the schedule set out in Section 103.050(F)(2) of this Code.

- B. The initial and renewal 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 ten percent (10%) of the stock of the corporation, any partner, when a partnership is involved, and any manager.
- C. If applicable, any applicant for a permit shall provide a current complete description of and legible floor plan(s) of the business premises and storage areas and containing all areas in which the applicant desires to conduct the business.
- D. Each applicant shall provide a complete description for any other business to be operating on the same premises or on adjoining premises owned or controlled by the applicant.
- E. In addition to the foregoing, any applicant for a permit shall furnish the following information with the original application and any renewal application:
  - 1. Written proof that the applicant is at least eighteen (18) years old.
  - 2. Two (2) portrait photographs at least two (2) inches by two (2) inches and fingerprints taken by the Police Department of the City.
  - 3. Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application.
  - 4. The massage, in-office massage therapy establishment, studio business license history of the applicant; 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 or occupation subsequent to such action of suspension or revocation.
  - 5. Any criminal convictions, except minor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and circumstances thereof.
  - ~~6. In the case of an in-office massage therapy establishment or massage establishment application, each person shall submit a health certificate from a physician duly licensed in either Missouri or Kansas stating that the applicant has, within thirty (30) days prior thereof, been examined and found to be free of any contagious or communicable disease.~~
  - 67. 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.
  - 78. Applicants for renewal of an existing license need provide only that information or documentation necessary to insure up-to-date renewal application processing.

**Section 620.060 Application For Massage Therapist Permits — Fees.**  
**[Ord. No. 882 §6, 6-8-1994; CC 2000 §5-606; Ord. No. 1218 §1, 12-13-2006]**

- A. Any person employed to perform any services in a massage establishment or in-office massage therapy establishment, as defined herein, shall file a written application with the City Clerk and pay an annual filing fee as set out in Section 103.050(F)(3) of this Code which shall not be refundable or prorated. This fee shall cover the cost of processing the application to include the FBI fingerprint fee and the KBI fingerprint fee. Only one (1) massage therapist permit shall be required regardless of the activity or activities permitted by this Chapter.

- B. The application for a massage therapist permit ~~and any renewal~~ application shall contain the following:
1. Name, address and telephone number.
  2. Two (2) portrait photographs at least two (2) inches by two (2) inches.
  3. Applicant's weight, height, color of hair and eyes and fingerprints taken by the Mission Police Department.
  4. Written evidence that the applicant is at least eighteen (18) years old.
  5. Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application.
  6. Whether such person has ever been convicted of any crime except minor traffic violations. If any person mentioned in this Subsection has been so convicted, a statement must be made giving the place and court in which the conviction was obtained and the sentence imposed as a result of such conviction.
- ~~7. A statement in writing from a licensed physician in the State of Kansas or Missouri that he/she has examined the applicant and believes the applicant to be free of any contagious or communicable diseases.~~
- ~~7.8.~~ 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.

C. The application for a massage therapist permit renewal application shall contain the following:

1. Name, address and telephone number.
2. Two (2) portrait photographs at least two (2) inches by two (2) inches.
3. Whether such person has ever been convicted of any crime except minor traffic violations since the time of the last issued license. If any person mentioned in this Subsection has been so convicted, a statement must be made giving the place and court in which the conviction was obtained and the sentence imposed as a result of such conviction.
4. 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.

**Section 620.070 Education Requirements — Massage Therapist.**  
**[Ord. No. 882 §7, 6-8-1994; CC 2000 §5-607; Ord. No. 1218 §1, 12-13-2006]**

- ~~A. Any person, including an applicant for an in-office massage therapy establishment or 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 any recognized schools 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 five hundred (500) hours of instruction in the theory, method or practice of massage. The educational and training requirements required by this Section may be received from more than one (1) school, provided all instructional hours offered toward meeting the five hundred (500) hour requirement must be accepted by the educational institution or school that issues the certificate of graduation submitted by the applicant.~~
- ~~B. In addition to the five hundred (500) hours of instruction, each massage therapist (whether holding~~

~~an existing employee permit or as an applicant) must obtain certification in American Red Cross first aid and American Heart Association CPR or the equivalent and receive instruction from a university, junior college or a medical facility associated with either or other instruction acceptable to the City Clerk, on clinical practices and safeguards related to blood-borne pathogens including, but not limited to, AIDS and hepatitis.~~

- ~~C. Each licensed massage therapist must show proof that he/she has received a minimum of twelve (12) hours of professional massage continuing education offered through a recognized school defined in Section 620.010 above during the preceding twelve (12) month licensing period. One (1) hour continuing education credit will be allotted for each hour of attendance at programs relating to massage therapy, clinical business and related hygiene practices. At least once every two (2) years such continuing education shall include instruction upon clinical practices and safeguards related to blood-borne pathogens.~~
- ~~D. Proof of completion of educational and training requirements must be by certified transcript or other form of certificate acceptable to the City Clerk.~~

To be eligible for a massage therapist license, an applicant shall provide proof of the following at the time of application:

1. Educational requirements. An initial applicant shall provide proof that the applicant:

- a. Has successfully completed a course of instruction made up of not less than 500 hours of instruction in the theory, method or practice of massage from a National Certification Board for Therapeutic Massage and bodywork (NCBTMB) approved school; or
- b. Has passed the national certification examination for therapeutic massage and bodywork

2. CPR and first aid. An applicant upon initial application and upon renewal shall provide proof of current certification in first aid and in cardiopulmonary resuscitation (CPR) by the American Heart Association or the equivalent.

3. Continuing education requirements. An applicant upon initial application and upon renewal and shall provide proof of compliance with continuing education requirements of the NCBTMB or the American Massage Therapy Association (AMTA) in effect at the time of application.

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**Section 620.080 Identification Cards.**

**[Ord. No. 882 §8, 6-8-1994; CC 2000 §5-608; Ord. No. 1218 §1, 12-13-2006]**

All or any employee issued a permit by the City Clerk under the provisions of this Chapter shall, at all times when working in an establishment subject to the provisions of this Chapter, 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 Chapter shall at all times keep their permits available for inspection upon request of any person who by law may inspect same.

**Section 620.090 Issuance of Business Permit.**

**[Ord. No. 882 §9, 6-8-1994; CC 2000 §5-609; Ord. No. 1218 §1, 12-13-2006]**

A. After the filing of an application in the proper form, the ~~Governing Body~~City Clerk shall examine the application and after such examination shall issue a permit for an ~~in-office massage therapy establishment or~~ massage establishment unless the ~~Governing Body~~City Clerk finds that:

1. 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.
2. 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 and property maintenance~~

regulations.

3. The applicant, if an individual, or any of the stockholders holding more than ten percent (10%) 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, having been convicted of or diverted on:
    - a. ~~A Felony; which involves the use, or threat of use, of physical force;~~
    - b. Felony not involving the use, or threat of use, of physical force that is less than five years old from date of application;
    - c. ~~Any offense involving "an unlawful sex act" which shall be defined as: rape, indecent liberties with a child, aggravated indecent liberties with a child, criminal sodomy, aggravated criminal sodomy, lewd and lascivious behavior, sexual battery or aggravated sexual battery, as each is defined by state statutes; sexual misconduct with children;~~
    - d. ~~Obscenity;~~
    - e. ~~Promoting prostitution as defined by K.S.A. 21-3513; Selling Sexual Relations as defined by K.S.A. 21-6419, Promoting the Sale of Sexual Relations as defined by K.S.A. 21-6420, or Buying Sexual Relations as defined by K.S.A. 21-6421, or any other conviction similar in nature which occurred in another jurisdiction.~~
    - f. Solicitation of a lewd or unlawful act;
    - g. Prostitution; or
    - h. Pandering or other sexually related offense.
  4. 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.
  5. The applicant has had a massage establishment, 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 (5) years prior to the date of the application.
  6. 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 eighteen (18) years.
  7. 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 Chapter.
- B. 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.
- C. If a massage therapy establishment license is denied, the applicant shall be notified via the contact method(s) as set forth on the application, and the notice shall state the basis for the denial. Any applicant aggrieved by the denial may seek judicial review to the county district court as provided by law.

Section 620.100 **Issuance of ~~Employee-Massage Therapist~~ Permit.**  
[Ord. No. 882 §10, 6-8-1994; CC 2000 §5-610; Ord. No. 1218 §1, 12-13-2006]

- A. The City Clerk shall issue ~~a~~ massage therapist permit within twenty-one (21) days following application, unless he/she finds that:
1. The application for the massage therapist permit has been convicted of or diverted on:
    - a. ~~A~~Felony; which involves the use, or threat of use, of physical force;
    - b. Felony not involving the use, or threat of use, of physical force that is less than five years old from date of application;
    - c**b.** Any offense involving an “unlawful sex act” which shall be defined as: rape, indecent liberties with a child, aggravated indecent liberties with a child, criminal sodomy, aggravated criminal sodomy, lewd and lascivious behavior, sexual battery or aggravated sexual battery, as each is defined by state statutessexual misconduct with children;
    - d**e.** Obscenity;
    - e**d.** Promoting prostitution as defined by K.S.A. 21-3513; Selling Sexual Relations as defined by K.S.A. 21-6419, Promoting the Sale of Sexual Relations as defined by K.S.A. 21-6420, or Buying Sexual Relations as defined by K.S.A. 21-6421, or any other conviction similar in nature which occurred in another jurisdiction.
    - f**e.** Solicitation of a lewd or unlawful act;
    - g**f.** Prostitution; or
    - h**g.** Pandering.
  2. 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.
  3. 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.
  4. The applicant has not successfully completed a resident course of study or learning from a recognized school as required under the provisions of this Chapter.

Section 620.110 **Revocation or Suspension of Business Permit.**  
**[Ord. No. 882 §11, 6-8-1994; CC 2000 §5-611; Ord. No. 1218 §1, 12-13-2006]**

- A. Any permit issued for ~~an in-office massage therapy establishment or~~ a massage establishment may be revoked or suspended by the ~~Governing Body~~Police Chief after a public hearing before the ~~Governing Body~~Police Chief where it is found that any of the provisions of this Chapter are violated or the provisions for issuance of any permit are violated or where the permittee or any employee of the permittee, including a massage therapist, has been convicted of any offense found in Sections **620.080** and **620.090** herein and the permittee has actual or constructive knowledge of the violation or conviction or, in any case, where the permittee or licensee refused to permit any duly authorized Police Officer or health inspector of the City to inspect the premises or the operations of the permittee or if the permittee or its employees are determined to have a communicable disease.
- B. The ~~Governing Body~~Police Chief, before revoking or suspending any permit, shall give the permittee at least ten (10) days' written notice of the charges against him/her/them and the opportunity for a public hearing before the ~~Governing Body~~Police Chief, at which time the permittee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.
- C. All revocations or suspensions by the City Clerk are appealable to the Governing Body within ten (10) days of the revocation or suspension, provided the appeal must be in writing and delivered to

the City.

**Section 620.120 Revocation or Suspension of Massage Therapist Permit.**  
[Ord. No. 882 §12, 6-8-1994; CC 2000 §5-612; Ord. No. 1218 §1, 12-13-2006]

- A. A ~~an~~ massage therapist permit issued by the City Clerk shall be revoked or suspended after a public hearing before the ~~City Administrator~~Police Chief or ~~his/her~~ designated representative where it appears that the employee has been convicted of any offense enumerated in Section ~~620.080 or 620.090~~100 or for violation of any of the provisions of this Chapter to include the application standards.
- B. The City Clerk, before revoking or suspending any employee permit, shall give the employee at least ten (10) days' written notice of the examination into his/her conviction record and the opportunity for a public hearing before the ~~City Administrator~~Police Chief or his/her designated representative, at which hearing the relevant facts regarding the occurrence of the conviction shall be determined.
- C. All revocations or suspensions by the City Clerk are appealable to the Governing Body within ten (10) days of the revocation or suspension, provided the appeal must be in writing and delivered to the City.

~~Section 620.130 Facilities Necessary.~~  
[Ord. No. 882 §13, 6-8-1994; CC 2000 §5-613; Ord. No. 1218 §1, 12-13-2006]

- ~~A. No permit to conduct a massage establishment shall be issued unless an inspection by the Code Inspector or his/her authorized representative reveals that the establishment complies with each of the following minimum requirements:~~
  - ~~1. 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's 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 (1) 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. These provisions are not applicable to an in-office massage therapy establishment.~~
  - ~~2. Toilet facilities shall be provided in convenient locations. When five (5) 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 twenty (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 (1) water closet has been provided. Toilets shall be designated as to the sex accommodated therein. These provisions are not applicable to an in-office massage therapy establishment.~~
  - ~~3. 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. These provisions are not applicable to an in-office massage therapy establishment.~~
- ~~B. The Code Inspector 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 of premises nor to preclude authorized inspection thereof.~~

Section 620.135 Processing and Investigation of Application

- A. Upon receipt of an application for a massage therapy establishment license, the City Clerk shall immediately provide copies of such application to the Police Chief and Community Development Director. The Police Chief and Community Development Director shall report the results of their

investigations, as set forth herein, to the City Clerk in a timely manner such that the City Clerk may comply with the applicable time restrictions for issuance or denial of a license.

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B. It shall be the duty of the Police Chief to investigate the application and to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued a massage therapy establishment license.

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C. It shall be the duty of the Community Development Director or designee to determine whether the structure where the massage therapy establishment business is proposed to be located complies with the requirements of the City's applicable health, zoning, building and property maintenance codes.

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**Section 620.140 Inspection — Immediate Right of Entry.**  
[Ord. No. 882 §14, 6-8-1994; CC 2000 §5-614; Ord. No. 1218 §1, 12-13-2006]

- A. The Police Department and the City Code Inspector may from time to time make an inspection of each permitted establishment in this City, to include those locations where there is an in-office massage therapy establishment, for the purpose of determining that the provisions of this Chapter 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.
- B. Provided, 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 massage therapist permit.

**Section 620.150 Operation Regulations.**  
[Ord. No. 882 §15, 6-8-1994; CC 2000 §5-615; Ord. No. 1218 §1, 12-13-2006]

- A. The operation of any such in-office massage therapy establishment or massage establishment shall be subject to the following regulations:

1. *License to be posted.* A massage therapy establishment license shall, at all times, be displayed by the licensee in an open and conspicuous place on the premises where the licensed business is conducted.

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2. *Limited to premises.* It is unlawful to operate a massage therapy establishment at any other premises than specified in the license.

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3. *Supervision.* The licensee shall have the premises supervised at all times when open for business. The licensee or a person employed by the business shall be present and personally supervise the premises and shall not violate, or permit others to violate, any applicable provision of this chapter. The violation of any provision of this division by any employee of the licensee shall be deemed a violation by the licensee.

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4. *Conduct of premises.* A massage therapy establishment licensee shall at all times be responsible for the conduct of business on the licensed premises and for any act or conduct of the licensee's employees which constitutes a violation of the provisions of this chapter. Any violation of any city, state or federal laws committed on the licensed premises by any such licensee or employee affecting the eligibility or suitability of such person to hold a license may be grounds for suspension or revocation of a license.

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5. *Massage therapist license required.*

a. It is unlawful for a massage therapy establishment licensee to personally conduct massage

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therapy or in-office massage therapy unless the licensee holds a valid massage therapist license issued by the City.

b. It is unlawful for any massage therapy establishment licensee to permit or allow massage therapy on the licensed premises by anyone other than a licensed massage therapist.

~~6.~~ Hours. Such business shall be closed and operations shall cease between the hours of 8:30 P.M. and 6:00 A.M. each day except that a massage therapist may conduct in-office massage therapy on business premises having bona fide evening and night shifts and a massage therapist who is operating pursuant to a home occupation license shall be subject to the hours restrictions set forth in applicable city home occupation regulations.

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~~7.~~ Customer number. It is unlawful for massage therapy establishment licensee to allow multiple customers to be treated in the same room at the same time unless it is two people being treated on two separate massage tables or chairs by two separate massage therapists.

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~~2.~~ 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. This provision is not applicable to in-office massage therapy establishments.

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~~83.~~ Danger to safety, health. No service shall be given which is clearly dangerous or harmful in the opinion of the Code Inspector to the safety or health of any person and after such notice in writing has been delivered to the licensee from such Director.

~~94.~~ 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 Chapter or during in-office massage therapy.

~~105.~~ Conduct of premises. All operators permitted under the provisions of this Chapter shall at all times be responsible for the conduct of business on their permitted premises and for any act or conduct of his/her employees which constitutes a violation of the provisions of this Chapter. Any violation of the City, State or Federal laws committed on the permitted premises by any such permittee or employee affecting the eligibility or suitability of such person to hold a license or permit may be grounds for suspension or revocation of same.

~~116.~~ Every portion of a permitted establishment, including appliances and personnel, shall be kept clean and operated in a sanitary condition.

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~~10.~~ Dressing rooms. Licensees shall provide a private dressing room on the licensed premises.

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~~127.~~ All employees shall be clean and wear clean outer garments which use is restricted to the permitted establishment. On all premises, except in-office massage therapy establishments, 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.

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~~138.~~ All employees and massage therapists must be modestly attired. Diaphanous, flimsy, transparent, form-fitting or tight clothing is prohibited. Clothing must cover the employees' and massage therapist's chests at all times. Hemlines of skirts, dresses or other such attire may be no higher than the top of the knee.

~~149.~~ The private parts of patrons must be covered by towels, cloths or undergarments when in the presence of an employee or massage therapist. Any contact with a patron's genital area is strictly prohibited.

~~1540.~~ 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.

~~1644.~~ Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned after each use.

17. Locked premises. No massage therapy may be offered or provided within any cubicle, room, booth or other a within the licensed premises which is fitted with a door than cannot be unlocked from the inside.

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**Section 620.160 Supervision.**

[Ord. No. 882 §16, 6-8-1994; CC 2000 §5-616; Ord. No. 1218 §1, 12-13-2006]

A permittee shall have the premises supervised at all times when open for business. (Any business rendering massage services shall have one (1) person who qualifies as a massage therapist 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 Chapter. The violation of any such provision by any agent or employee of the permittee shall constitute a violation by the permittee.

**Section 620.170 Employee and Patron Registers.**

[Ord. No. 882 §17, 6-8-1994; CC 2000 §5-617; Ord. No. 1218 §1, 12-13-2006]

- A. All operators permitted under the provisions of this Chapter shall keep and maintain on their premises a current register of all their massage therapists 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, ages (if under eighteen (18)), addresses and hours of arrival and, if applicable, the rooms or cubicles assigned. The 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 (1) year.

**Section 620.180 Persons Under Age Eighteen Years Old Prohibited On Premises.**

[Ord. No. 882 §18, 6-8-1994; CC 2000 §5-618; Ord. No. 1218 §1, 12-13-2006]

No person shall permit any person under the age of eighteen (18) years of age to come or remain on the premises of any permitted business establishment as massage therapist or employee. No permittee shall perform or permit any massage to be provided to a person under the age of twelve (12) except in the presence of such child's parent or legal guardian. No permittee shall perform or permit any massage to be provided to a person between the ages of twelve (12) through eighteen (18) without the written authority of the child's parent or guardian and such written evidence of authority shall be kept with the daily register required pursuant to Section 620.170 of this Code.

**Section 620.190 Advertising.**

[Ord. No. 882 §19, 6-8-1994; CC 2000 §5-619; Ord. No. 1218 §1, 12-13-2006]

No establishment granted a permit under provisions of this Chapter 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 620.010 or that employees or massage therapists are dressed in any manner other than described in Section 620.150, nor shall any establishment indicate in the text of such advertising that any service is available other than those services described in Section 620.010.

**Section 620.200 Transfer of Permits — Other Licenses and Fees.**

[Ord. No. 882 §20, 6-8-1994; CC 2000 §5-620; Ord. No. 1218 §1, 12-13-2006]

- A. No massage business, in-office massage therapy establishment or massage therapist 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 ordinances of this City.

**Section 620.210 Applicability To Existing Businesses.**  
[Ord. No. 882 §21, 6-8-1994; CC 2000 §5-621; Ord. No. 1218 §1, 12-13-2006]

The operators of any existing massage establishment ~~or in-office massage therapy establishment~~ are required to comply with all provisions of this Chapter.

**Section 620.220 Exceptions.**  
[Ord. No. 882 §22, 6-8-1994; CC 2000 §5-622; Ord. No. 1218 §1, 12-13-2006]

The provisions of this Chapter shall not apply to hospitals, nursing homes, sanitariums or persons holding an unrevoked certificate to practice the healing arts, ~~persons holding an unrevoked license to practice as a registered professional nurse under state law, under the laws of this State or persons~~ working under the direction and supervision of any ~~licensed healing arts practitioner, persons licensed to practice as a physical therapist under state law, or persons working under the direction and supervision of any licensed healing arts practitioner~~ or such persons or in any such establishment, nor shall this Chapter 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.

**Section 620.230 Further Regulations.**  
[Ord. No. 882 §23, 6-8-1994; CC 2000 §5-623; Ord. No. 1218 §1, 12-13-2006]

The City Administrator or his/her designee or the Code Inspector may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this Chapter.

**Section 620.240 Restriction of Business To Premises.**  
[Ord. No. 882 §24, 6-8-1994; CC 2000 §5-624; Ord. No. 1218 §1, 12-13-2006]

- A. All business or activity provided for under this Chapter (not to include in-office massage therapy) shall be conducted and performed on the premises of a licensed massage therapy establishment, provided massage therapy may be conducted in a private residence under the following conditions:
1. If done at the direction of a licensed healing arts practitioner; or
  2. If done at the written request of a person, on a form provided by City Clerk that shall provide the name and address of the requesting person, the date and time of the service and the fees charged for the service. When private residence massage therapy is offered, whether by telephone, in person or in writing, the person offering such service must state clearly that they are a licensed massage therapist or that the service will be performed by a licensed massage therapist and that prior to any service being provided the person requesting the service will be required to sign a form requesting the service. All such written requests shall be kept by the licensed massage therapy establishment for a period of one (1) year and shall be produced for inspection when requested by any City official. Private residence massage therapy shall not be conducted between the hours of 10:00 P.M. and 9:00 A.M.
- B. All licensed massage therapy establishments shall be operated from a commercial business premise. ~~Operation of such an establishment in a private home, residence or non-commercial business establishment is prohibited.~~ Sole practitioners (therapists who work alone), are required to have both a massage therapist permit and massage therapy establishment permit and to work from a ~~commercial business~~ licensed premise.
- C. Massage therapy is not permitted in the guest rooms of hotels unless the hotel is licensed as a massage therapy establishment and the massage therapy is conducted by a licensed massage therapist employed by the hotel.

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# Chapter 620

## Massage Establishments

Section 620.010 **Definitions.**

[Ord. No. 882 §1, 6-8-1994; CC 2000 §5-601; Ord. No. 1218 §1, 12-13-2006]

As used in this Chapter, the following terms shall have these prescribed meanings:

### **BUSINESS PREMISES**

Those premises where a private or public commercial enterprise is conducted, but specifically not to include businesses conducted in a private residence, premises used for joint residential and business purposes, hotels and motels.

### **EMPLOYEE**

Any person, other than massage therapist who renders any service to a permittee under this Chapter, who receives compensation from the permittee or patron.

### **IN-OFFICE MASSAGE THERAPY**

Massage that is conducted in the business premises of a massage client and is limited to massage therapy applied only while the massage client is fully clothed.

### **MASSAGE**

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. Massage as defined herein does not include the touching in any fashion of human genitalia.

### **MASSAGE ESTABLISHMENT**

Any establishment having a place of business where any person engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in "Massage" above for compensation but does not include "in-office massage therapy establishments".

### **MASSAGE THERAPIST**

Any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.

### **PATRON**

Any person 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/she will pay money or give any other consideration therefor, provided a person under the age of twelve (12) may utilize or receive massage therapy from a licensed massage therapist if accompanied at all times during such service by a parent or legal guardian and, provided further, a person ages twelve (12) through eighteen (18) may also utilize or receive such massage therapy if a parent or legal guardian has authorized such therapy in writing.

### **RECOGNIZED SCHOOL**

Any school or institution of learning accredited or licensed in the State in which it operates by the respective Board of Education or other governmental equivalent, which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a course of

study not less than five hundred (500) hours to be given in not more than twenty-four (24) 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.

**Section 620.020 Permit Required.**

**[Ord. No. 882 §2, 6-8-1994; CC 2000 §5-602; Ord. No. 1218 §1, 12-13-2006]**

No person, firm, partnership, association or corporation shall operate a establishment, as defined herein, without first having obtained a permit therefor issued by the City Clerk of this City. Such permit shall be valid only from July first (1st) to June thirtieth (30th) of each calendar year.

**Section 620.035 Restriction to licensed premises.**

A. All massage therapy, other than in-office massage therapy, provided under the provisions of this chapter, shall be conducted on the premises of a licensed massage therapy establishment.

B. Exceptions.

1. Massage therapy may be conducted at a private residence that has been approved by the City Clerk and Community Development Director or designee for a Home Occupation permit subject to the conditions associated with such home occupation permit, as provided in Chapter 605, Article IV. When operating under a Home Occupation permit, only individuals residing in the home will be allowed to operate on premise.
2. Massage therapy may be conducted at a private residence at the direction of and under the direct supervision of a licensed healing arts practitioner.

**Section 620.040 Massage Therapist Permit Required.**

**[Ord. No. 882 §4, 6-8-1994; CC 2000 §5-604; Ord. No. 1218 §1, 12-13-2006]**

No person shall perform massage therapy unless he/she has a valid massage therapists permit issued by the City pursuant to the provisions of this Chapter.

**Section 620.050 Application For Business Permit — Fees.**

**[Ord. No. 882 §5, 6-8-1994; CC 2000 §5-605; Ord. No. 1218 §1, 12-13-2006]**

- A. Every applicant for a permit to maintain, operate or conduct any establishment covered by this Chapter shall file an application with the City Clerk and pay an initial filing fee as set out in Section 103.050(F)(1) of this Code which shall not be refundable or prorated. Every applicant for a renewal permit to maintain, operate or conduct any establishment covered by this Chapter shall file an application with the City Clerk and pay a renewal filing fee calculated on the basis of the square footage occupied by the business without regard to use, including outside area, in accordance with the schedule set out in Section 103.050(F)(2) of this Code.
- B. The initial and renewal 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 ten percent (10%) of the stock of the corporation, any partner, when a partnership is involved, and any manager.
- C. If applicable, any applicant for a permit shall provide a current complete description of and legible floor plan(s) of the business premises and storage areas and containing all areas in which the applicant desires to conduct the business.
- D. Each applicant shall provide a complete description for any other business to be operating on the same premises or on adjoining premises owned or controlled by the applicant.

- E. In addition to the foregoing, any applicant for a permit shall furnish the following information with the original application and any renewal application:
1. Written proof that the applicant is at least eighteen (18) years old.
  2. Two (2) portrait photographs at least two (2) inches by two (2) inches and fingerprints taken by the Police Department of the City.
  3. Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application.
  4. The massage, in-office massage therapy establishment, studio business license history of the applicant; 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 or occupation subsequent to such action of suspension or revocation.
  5. Any criminal convictions, except minor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and circumstances thereof.
  6. 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.
  7. Applicants for renewal of an existing license need provide only that information or documentation necessary to insure up-to-date renewal application processing.

**Section 620.060 Application For Massage Therapist Permits — Fees.**  
**[Ord. No. 882 §6, 6-8-1994; CC 2000 §5-606; Ord. No. 1218 §1, 12-13-2006]**

- A. Any person employed to perform any services in a massage establishment or in-office massage therapy establishment, as defined herein, shall file a written application with the City Clerk and pay an annual filing fee as set out in Section 103.050(F)(3) of this Code which shall not be refundable or prorated. This fee shall cover the cost of processing the application to include the FBI fingerprint fee and the KBI fingerprint fee. Only one (1) massage therapist permit shall be required regardless of the activity or activities permitted by this Chapter.
- B. The application for a massage therapist permit application shall contain the following:
1. Name, address and telephone number.
  2. Two (2) portrait photographs at least two (2) inches by two (2) inches.
  3. Applicant's weight, height, color of hair and eyes and fingerprints taken by the Mission Police Department.
  4. Written evidence that the applicant is at least eighteen (18) years old.
  5. Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application.
  6. Whether such person has ever been convicted of any crime except minor traffic violations. If any person mentioned in this Subsection has been so convicted, a statement must be made giving the place and court in which the conviction was obtained and the sentence imposed as a result of such conviction.
  7. 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.

- C. The application for a massage therapist permit renewal application shall contain the following:
1. Name, address and telephone number.
  2. Two (2) portrait photographs at least two (2) inches by two (2) inches.
  3. Whether such person has ever been convicted of any crime except minor traffic violations since the time of the last issued license. If any person mentioned in this Subsection has been so convicted, a statement must be made giving the place and court in which the conviction was obtained and the sentence imposed as a result of such conviction.
  4. 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.

**Section 620.070 Education Requirements — Massage Therapist.**  
**[Ord. No. 882 §7, 6-8-1994; CC 2000 §5-607; Ord. No. 1218 §1, 12-13-2006]**

To be eligible for a massage therapist license, an applicant shall provide proof of the following at the time of application:

1. Educational requirements. An initial applicant shall provide proof that the applicant:
  - a. Has successfully completed a course of instruction made up of not less than 500 hours of instruction in the theory, method or practice of massage from a National Certification Board for Therapeutic Massage and bodywork (NCBTMB) approved school; or
  - b. Has passed the national certification examination for therapeutic massage and bodywork.
2. CPR and first aid. An applicant upon initial application and upon renewal shall provide proof of current certification in first aid and in cardiopulmonary resuscitation (CPR) by the American Heart Association or the equivalent.
3. Continuing education requirements. An applicant upon initial application and upon renewal shall provide proof of compliance with continuing education requirements of the NCBTMB or the American Massage Therapy Association (AMTA) in effect at the time of application.

**Section 620.080 Identification Cards.**  
**[Ord. No. 882 §8, 6-8-1994; CC 2000 §5-608; Ord. No. 1218 §1, 12-13-2006]**

All or any employee issued a permit by the City Clerk under the provisions of this Chapter shall, at all times when working in an establishment subject to the provisions of this Chapter, 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 Chapter shall at all times keep their permits available for inspection upon request of any person who by law may inspect same.

**Section 620.090 Issuance of Business Permit.**  
**[Ord. No. 882 §9, 6-8-1994; CC 2000 §5-609; Ord. No. 1218 §1, 12-13-2006]**

- A. After the filing of an application in the proper form, the City Clerk shall examine the application and after such examination shall issue a permit for a massage establishment unless the City Clerk finds that:
1. 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.
  2. 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 property maintenance regulations.

3. The applicant, if an individual, or any of the stockholders holding more than ten percent (10%) 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, having been convicted of or diverted on:
  - a. Felony which involves the use, or threat of use, of physical force;
  - b. Felony not involving the use, or threat of use, of physical force that is less than five years old from date of application;
  - c. Any offense involving “an unlawful sex act” which shall be defined as: rape, indecent liberties with a child, aggravated indecent liberties with a child, criminal sodomy, aggravated criminal sodomy, lewd and lascivious behavior, sexual battery or aggravated sexual battery, as each is defined by state statutes;
  - d. Obscenity;
  - e. Selling Sexual Relations as defined by K.S.A. 21-6419, Promoting the Sale of Sexual Relations as defined by K.S.A. 21-6420, or Buying Sexual Relations as defined by K.S.A. 21-6421, or any other conviction similar in nature which occurred in another jurisdiction.
  - f. Solicitation of a lewd or unlawful act;
  - g. Prostitution; or
  - h. Pandering or other sexually related offense.
4. 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.
5. The applicant has had a massage establishment, 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 (5) years prior to the date of the application.
6. 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 eighteen (18) years.
7. 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 Chapter.
- B. 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.
- C. If a massage therapy establishment license is denied, the applicant shall be notified via the contact method(s) as set forth on the application, and the notice shall state the basis for the denial. Any applicant aggrieved by the denial may seek judicial review to the county district court as provided by law.

**Section 620.100 Issuance of Massage Therapist Permit.**

**[Ord. No. 882 §10, 6-8-1994; CC 2000 §5-610; Ord. No. 1218 §1, 12-13-2006]**

- A. The City Clerk shall issue a massage therapist permit within twenty-one (21) days following

application, unless he/she finds that:

1. The application for the massage therapist permit has been convicted of or diverted on:
  - a. Felony which involves the use, or threat of use, of physical force;
  - b. Felony not involving the use, or threat of use, of physical force that is less than five years old from date of application;
  - c. Any offense involving an “unlawful sex act” which shall be defined as: rape, indecent liberties with a child, aggravated indecent liberties with a child, criminal sodomy, aggravated criminal sodomy, lewd and lascivious behavior, sexual battery or aggravated sexual battery, as each is defined by state statutes;
  - d. Obscenity;
  - e. Selling Sexual Relations as defined by K.S.A. 21-6419, Promoting the Sale of Sexual Relations as defined by K.S.A. 21-6420, or Buying Sexual Relations as defined by K.S.A. 21-6421, or any other conviction similar in nature which occurred in another jurisdiction.
  - f. Solicitation of a lewd or unlawful act;
  - g. Prostitution; or
  - h. Pandering.
2. 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.
3. 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.
4. The applicant has not successfully completed a resident course of study or learning from a recognized school as required under the provisions of this Chapter.

**Section 620.110 Revocation or Suspension of Business Permit.**

**[Ord. No. 882 §11, 6-8-1994; CC 2000 §5-611; Ord. No. 1218 §1, 12-13-2006]**

- A. Any permit issued for a massage establishment may be revoked or suspended by the Police Chief after a public hearing before the Police Chief where it is found that any of the provisions of this Chapter are violated or the provisions for issuance of any permit are violated or where the permittee or any employee of the permittee, including a massage therapist, has been convicted of any offense found in Sections **620.080** and **620.090** herein and the permittee has actual or constructive knowledge of the violation or conviction or, in any case, where the permittee or licensee refused to permit any duly authorized Police Officer or health inspector of the City to inspect the premises or the operations of the permittee or if the permittee or its employees are determined to have a communicable disease.
- B. The Police Chief, before revoking or suspending any permit, shall give the permittee at least ten (10) days’ written notice of the charges against him/her/them and the opportunity for a public hearing before the Police Chief, at which time the permittee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

**Section 620.120 Revocation or Suspension of Massage Therapist Permit.**

**[Ord. No. 882 §12, 6-8-1994; CC 2000 §5-612; Ord. No. 1218 §1, 12-13-2006]**

- A. A massage therapist permit issued by the City Clerk shall be revoked or suspended after a public hearing before the Police Chief or a designated representative where it appears that the employee has

been convicted of any offense enumerated in Section **620.080 or 620.100** or for violation of any of the provisions of this Chapter to include the application standards.

- B. The City Clerk, before revoking or suspending any employee permit, shall give the employee at least ten (10) day written notice of the examination into his/her conviction record and the opportunity for a public hearing before the Police Chief or his/her designated representative, at which hearing the relevant facts regarding the occurrence of the conviction shall be determined.
- C. All revocations or suspensions by the City Clerk are appealable to the Governing Body within ten (10) days of the revocation or suspension, provided the appeal must be in writing and delivered to the City.

#### **Section 620.135 Processing and Investigation of Application**

- A. Upon receipt of an application for a massage therapy establishment license, the City Clerk shall immediately provide copies of such application to the Police Chief and Community Development Director. The Police Chief and Community Development Director shall report the results of their investigations, as set forth herein, to the City Clerk in a timely manner such that the City Clerk may comply with the applicable time restrictions for issuance or denial of a license.
- B. It shall be the duty of the Police Chief to investigate the application and to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued a massage therapy establishment license.
- C. It shall be the duty of the Community Development Director or designee to determine whether the structure where the massage therapy establishment business is proposed to be located complies with the requirements of the City's applicable health, zoning, building and property maintenance codes.

#### **Section 620.140 Inspection — Immediate Right of Entry.**

**[Ord. No. 882 §14, 6-8-1994; CC 2000 §5-614; Ord. No. 1218 §1, 12-13-2006]**

- A. The Police Department and the City Code Inspector may from time to time make an inspection of each permitted establishment in this City, to include those locations where there is an in-office massage therapy establishment, for the purpose of determining that the provisions of this Chapter 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.
- B. Provided, 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 massage therapist permit.

#### **Section 620.150 Operation Regulations.**

**[Ord. No. 882 §15, 6-8-1994; CC 2000 §5-615; Ord. No. 1218 §1, 12-13-2006]**

- A. The operation of any such in-office massage therapy establishment or massage establishment shall be subject to the following regulations:
  - 1. *License to be posted.* A massage therapy establishment license shall, at all times, be displayed by the licensee in an open and conspicuous place on the premises where the licensed business is conducted.
  - 2. *Limited to premises.* It is unlawful to operate a massage therapy establishment at any other premises than specified in the license.

3. *Supervision.* The licensee shall have the premises supervised at all times when open for business. The licensee or a person employed by the business shall be present and personally supervise the premises and shall not violate, or permit others to violate, any applicable provision of this chapter. The violation of any provision of this division by any employee of the licensee shall be deemed a violation by the licensee.
4. *Conduct of premises.* A massage therapy establishment licensee shall at all times be responsible for the conduct of business on the licensed premises and for any act or conduct of the licensee's employees which constitutes a violation of the provisions of this chapter. Any violation of any city, state or federal laws committed on the licensed premises by any such licensee or employee affecting the eligibility or suitability of such person to hold a license may be grounds for suspension or revocation of a license.
5. Massage therapist license required.
  - a. It is unlawful for a massage therapy establishment licensee to personally conduct massage therapy or in-office massage therapy unless the licensee holds a valid massage therapist license issued by the City.
  - b. It is unlawful for any massage therapy establishment licensee to permit or allow massage therapy on the licensed premises by anyone other than a licensed massage therapist.
6. *Hours.* Such business shall be closed and operations shall cease between the hours of 8:30 P.M. and 6:00 A.M. each day except that a massage therapist may conduct in-office massage therapy on business premises having bona fide evening and night shifts and a massage therapist who is operating pursuant to a home occupation license shall be subject to the hours restrictions set forth in applicable city home occupation regulations.
7. *Customer number.* It is unlawful for massage therapy establishment licensee to allow multiple customers to be treated in the same room at the same time unless it is two people being treated on two separate massage tables or chairs by two separate massage therapists.
8. *Danger to safety, health.* No service shall be given which is clearly dangerous or harmful in the opinion of the Code Inspector to the safety or health of any person and after such notice in writing has been delivered to the licensee from such Director.
9. *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 Chapter or during in-office massage therapy.
10. *Conduct of premises.* All operators permitted under the provisions of this Chapter shall at all times be responsible for the conduct of business on their permitted premises and for any act or conduct of his/her employees which constitutes a violation of the provisions of this Chapter. Any violation of the City, State or Federal laws committed on the permitted premises by any such permittee or employee affecting the eligibility or suitability of such person to hold a license or permit may be grounds for suspension or revocation of same.
11. Every portion of a permitted establishment, including appliances and personnel, shall be kept clean and operated in a sanitary condition.
12. *Dressing rooms.* Licensees shall provide a private dressing room on the licensed premises.
13. All employees and massage therapists must be modestly attired. Diaphanous, flimsy, transparent, form-fitting or tight clothing is prohibited. Clothing must cover the employees' and massage therapist's chests at all times.
14. The private parts of patrons must be covered by towels, cloths or undergarments when in the

presence of an employee or massage therapist. Any contact with a patron's genital area is strictly prohibited.

15. 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.
16. Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned after each use.
17. *Locked premises.* No massage therapy may be offered or provided within any cubicle, room, booth or other a within the licensed premises which is fitted with a door than cannot be unlocked from the inside.

**Section 620.160 Supervision.**

**[Ord. No. 882 §16, 6-8-1994; CC 2000 §5-616; Ord. No. 1218 §1, 12-13-2006]**

A permittee shall have the premises supervised at all times when open for business. (Any business rendering massage services shall have one (1) person who qualifies as a massage therapist 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 Chapter. The violation of any such provision by any agent or employee of the permittee shall constitute a violation by the permittee.

**Section 620.170 Employee and Patron Registers.**

**[Ord. No. 882 §17, 6-8-1994; CC 2000 §5-617; Ord. No. 1218 §1, 12-13-2006]**

- A. All operators permitted under the provisions of this Chapter shall keep and maintain on their premises a current register of all their massage therapists 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, ages (if under eighteen (18)), addresses and hours of arrival and, if applicable, the rooms or cubicles assigned. The 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 (1) year.

**Section 620.180 Persons Under Age Eighteen Years Old Prohibited On Premises.**

**[Ord. No. 882 §18, 6-8-1994; CC 2000 §5-618; Ord. No. 1218 §1, 12-13-2006]**

No person shall permit any person under the age of eighteen (18) years of age to come or remain on the premises of any permitted business establishment as massage therapist or employee. No permittee shall perform or permit any massage to be provided to a person under the age of twelve (12) except in the presence of such child's parent or legal guardian. No permittee shall perform or permit any massage to be provided to a person between the ages of twelve (12) through eighteen (18) without the written authority of the child's parent or guardian and such written evidence of authority shall be kept with the daily register required pursuant to Section **620.170** of this Code.

**Section 620.190 Advertising.**

**[Ord. No. 882 §19, 6-8-1994; CC 2000 §5-619; Ord. No. 1218 §1, 12-13-2006]**

No establishment granted a permit under provisions of this Chapter 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 **620.010** or that employees or massage therapists are dressed in any

manner other than described in Section **620.150**, nor shall any establishment indicate in the text of such advertising that any service is available other than those services described in Section **620.010**.

**Section 620.200 Transfer of Permits — Other Licenses and Fees.**

**[Ord. No. 882 §20, 6-8-1994; CC 2000 §5-620; Ord. No. 1218 §1, 12-13-2006]**

- A. No massage business, in-office massage therapy establishment or massage therapist 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 ordinances of this City.

**Section 620.210 Applicability To Existing Businesses.**

**[Ord. No. 882 §21, 6-8-1994; CC 2000 §5-621; Ord. No. 1218 §1, 12-13-2006]**

The operators of any existing massage establishment are required to comply with all provisions of this Chapter.

**Section 620.220 Exceptions.**

**[Ord. No. 882 §22, 6-8-1994; CC 2000 §5-622; Ord. No. 1218 §1, 12-13-2006]**

The provisions of this Chapter shall not apply to hospitals, nursing homes, sanitariums or persons holding an unrevoked certificate to practice the healing arts, persons holding an unrevoked license to practice as a registered professional nurse under state law working under the direction and supervision of any licensed healing arts practitioner, persons licensed to practice as a physical therapist under state law, or persons working under the direction and supervision of any licensed healing arts practitioner or such persons or in any establishment, nor shall this Chapter apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked and unsuspended license or certificate of registration issued by this State.

**Section 620.230 Further Regulations.**

**[Ord. No. 882 §23, 6-8-1994; CC 2000 §5-623; Ord. No. 1218 §1, 12-13-2006]**

The City Administrator or his/her designee or the Code Inspector may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this Chapter.

**Section 620.240 Restriction of Business To Premises.**

**[Ord. No. 882 §24, 6-8-1994; CC 2000 §5-624; Ord. No. 1218 §1, 12-13-2006]**

- A. All business or activity provided for under this Chapter (not to include in-office massage therapy) shall be conducted and performed on the premises of a licensed massage therapy establishment, provided massage therapy may be conducted in a private residence under the following conditions:
  - 1. If done at the direction of a licensed healing arts practitioner; or
  - 2. If done at the written request of a person, on a form provided by City Clerk that shall provide the name and address of the requesting person, the date and time of the service and the fees charged for the service. When private residence massage therapy is offered, whether by telephone, in person or in writing, the person offering such service must state clearly that they are a licensed massage therapist or that the service will be performed by a licensed massage therapist and that prior to any service being provided the person requesting the service will be required to sign a form requesting the service. All such written requests shall be kept by the licensed massage therapy establishment for a period of one (1) year and shall be produced for inspection when requested by any City official. Private residence massage therapy shall not be conducted between the hours of 10:00 P.M. and 9:00 A.M.

- B. All licensed massage therapy establishments shall be operated from a commercial business premise. Sole practitioners (therapists who work alone), are required to have both a massage therapist permit and massage therapy establishment permit and to work from a licensed premise.
- C. Massage therapy is not permitted in the guest rooms of hotels unless the hotel is licensed as a massage therapy establishment and the massage therapy is conducted by a licensed massage therapist employed by the hotel.

<b>City of Mission</b>	Item Number:	4.
<b>ACTION ITEM SUMMARY</b>	Date:	September 7, 2022
<b>Administration</b>	From:	Robyn Fulks

Action items require a vote to recommend the item to full City Council for further action.

**RE:** Selection of Voting Delegates for LKM Annual Business Meeting and NLC Annual Business Meeting

**RECOMMENDATION:** Select voting delegates for the LKM Annual Business Meeting on Monday, October 10, 12:00 p.m. at the Annual Conference in Overland Park, and voting delegates for the National League of Cities Business Meeting at the NLC City Summit, November 17-19, in Kansas City, MO.

**DETAILS:**

**League of Kansas Municipalities Voting Delegates:** Based on population, and in accordance with LKM Bylaws, the City may select up to three voting delegates for the League’s Annual Business Meeting. This meeting will be held on Monday, October 10 in Overland Park. Currently, Councilmember Thomas and Councilmember Loudon plan to attend.

**National League of Cities Voting Delegates:** As a direct member city of NLC, Mission is entitled to one voting delegate and one alternate voting delegate to represent the City at the Business Meeting held during NLC’s City Summit Conference. At this time, the following elected officials have indicated they are planning to attend the NLC City Summit Conference, November 17-19 in Kansas City: Mayor Flora, and Councilmembers Kring, Loudon, Boultinghouse and Thomas. Members of the Governing Body may wish to discuss their preferences for selecting a voting delegate and alternate.

**CFAA CONSIDERATIONS/IMPACTS:** N/A

Related Statute/City Ordinance:	N/A
Line Item Code/Description:	N/A
Available Budget:	N/A

<b>City of Mission</b>	Item Number:	5.
<b>ACTION ITEM SUMMARY</b>	Date:	September 7, 2022
<b>Administration</b>	From:	Laura Smith

Action items require a vote to recommend the item to full City Council for further action.

**RE:** Mission Gateway Project

**RECOMMENDATION:** No recommendation is appropriate at this time.

**DETAILS:** Public hearings for consideration of a new Tax Increment Financing (TIF) Redevelopment Project Plan and a new Community Improvement District petition have been calendared for a Special City Council meeting on Wednesday, September 28, 2022.

In preparation for consideration of these items the City Council will hear several presentations and review information necessary for consideration of the various project components at meetings on September 7 and September 14. No materials are included in the packet. The primary focus of the September 7th Finance & Administration Committee meeting will be information from the City's financial advisor Bruce Kimmel.

**CFAA CONSIDERATIONS/IMPACTS:** N/A

Related Statute/City Ordinance:	NA
Line Item Code/Description:	NA
Available Budget:	NA



# **Gateway Redevelopment Analysis**

Finance & Administration Committee Meeting

Bruce Kimmel, Senior Municipal Advisor

September 7, 2022

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## Gateway Proposal

- Phase 1: Apartments, Retail, Cinergy, Parking Structure
- Phase 2: Hotel, Office Building
  
- Estimated \$259.5 Million Total Development Budget
  - ✓ Phase 1: \$163.4 Million
  - ✓ Phase 2: \$96.1 Million



## Phase 1 Funding Stack

- Construction Loan: \$65.3 Million
- Mezzanine Loan: \$46.0 Million
- Development Equity: \$29.6 Million
- TIF/CID Bond Proceeds: \$22.5 Million
- **Total Phase 1 Funds: \$163.4 Million**



## Phase 1 Funding Stack

- Developer has construction and mezzanine loan term sheets consistent with Phase 1 funding stack.
- Bond underwriter (DA Davidson) has provided Bond projections consistent with Phase 1 funding stack.
- Developer represents it has discussed increasing loan and equity amounts if Phase 1 project costs increase.



## Updated Working Deal Terms

- Developer does not wish to provide City with financial guarantee regarding starting and completing Phase 2.
- Plan is for City to consider (a) TIF and CID plan updates, (b) S.O. TIF / CID bonds payable solely from Phase 1 elements, and (c) milestones / other requirements.
  - ✓ Future Council would consider issuing Phase 2 Bonds when specific project milestones are met.



## Ehlers Analysis

- Gateway / GFI provided detailed budgets, funding projections, and operating proformas for each project element and overall
- Key Findings:
  - ✓ With Gateway's proposed assistance, their overall return on investment will be on the very low end of market expectations.
  - ✓ Without the proposed TIF clock reset, we would not expect another developer to pursue the project as currently proposed.
  - ✓ Construction cost and interest rate challenges remain.



## Ehlers Analysis

- Estimated City Revenues during 2023 – 2042 TIF Term
  - ✓ Phase 1: \$22.2 Million
  - ✓ Phase 2: \$4.1 Million
  - ✓ Total City Revenues: \$26.3 Million
- Also: Community benefit from Phase 1 population and retail / entertainment growth, affordable apartment units, and sustainable building design and operations.