



cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item D
January 5, 2009

SUBJECT: Consideration of Ordinance 09-120.10 amending Chapter 20 Massage Ordinance, Sections 20-51 and 20-52 to revise the requirements for submission of applications for massage therapist permits – First Reading

SUBMITTING DEPARTMENT: City Clerk *DB*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION: Earlier this year, City Council approved amendments to Massage ordinance to clarify inspection requirements, revise the revocation procedures for establishment licenses and to revise the requirements for massage therapist permits. The proposed amendment would revise the requirements for submission of applications for massage therapist permits in Section 20-52 (8) updated to submission of a recent photograph and Section 20-52 (13) allowing the medical certificate to be submitted within 30 days of the date of the application.

RECOMMENDED ACTION: Consideration of Ordinance 09-120.10 amending Chapter 20 Massage Ordinance, Sections 20-51 and 20-52 to revise the requirements for submission of applications for massage therapist permits – First Reading

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem				
Council Member Crawford				
Council Member Gatt				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

SECRET
SW
WARDLE

December 18, 2008

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Thomas R. Schultz
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tschultz@secretwardle.com

Maryanne Cornelius, Clerk
City of Novi
45175 W. Ten Mile Road
Novi, MI 48375

Re: *Massage Ordinance—Proposed Amendments*
Our File No. 55142 NOV

Dear Ms. Cornelius:

This letter and the attached proposed amendment to the massage ordinance follows up recent conversations regarding implementation of the changes to the massage ordinance. The two main issues that have come up are (1) the interaction between the new requirement that the operator of a massage establishment provide applications for all massage therapists at the time of the businesses' application and the requirement that all applications for the individual therapists' licenses have a doctor's certificate dated no later than seven days from the date of submission (see ordinance Sections 20-51 and 20-52); and (2) the requirement that the doctor's certificate indicate that the applicant is free of "communicable diseases."

With regard to the communicable diseases issue, it is my understanding that you have done a "survey" of city clerks and it seems that most of them administer ordinances for their communities that have similar language. We have also done a search of various ordinances, and frankly have found the use of that term to be pretty typical (the other often used term being "contagious" diseases).

Based largely on the fact that this issue has not presented a problem over the years, at least until very recently, we are not recommending any specific changes. That would leave it up to the applicant's doctor—as it has been since the ordinance was adopted—to determine from a medical perspective whether that statement can be made on behalf of a particular applicant at the time of the application. Absent some specific proposal, perhaps from a professional organization representing massage therapists, we have no problem with the language as written. As you know, the matter was discussed extensively before the ordinance was reviewed in detail recently.

With regard to the timing of the doctor's certificate and the massage therapist's application, you indicated that you thought that the seven days was too narrow a window for all of the therapists within a particular office to schedule and complete

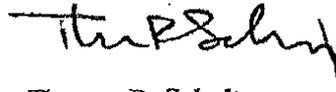
12/18/08
To Mayor and City
Council Members
Edit for future consideration.


Maryanne Cornelius, City Clerk
December 18, 2008
Page 2

doctors appointments and secure the appropriate paperwork. Your suggestion was to expand that time to 30 days. Attached is the ordinance amendment that would accomplish that change to the ordinance. Note also the change to the timing for the photograph to be submitted, from "within 30 days" to a requirement that the photograph be "recent."

I look forward to hearing from you. If the change is not what you had intended, or if you think additional changes to the ordinance are necessary, please call me.

Very truly yours,



Thomas R. Schultz

TRS/jes

Enclosure

cc: Clay Pearson, City Manager
Pam Antil, Assistant City Manager

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STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI
ORDINANCE NO. 09-120.10

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, CHAPTER 20, "MASSAGE," TO REVISE THE REQUIREMENTS FOR SUBMISSION OF APPLICATIONS FOR MASSAGE THERAPIST PERMITS.

THE CITY OF NOVI ORDAINS:

PART I.

That Chapter 20, "Massage," Article III, "Massage Therapist Permit," Section 20-52, "Application," of the City of Novi Code of Ordinances, is hereby amended to read as follows:

ARTICLE III. MASSAGE THERAPIST PERMIT

Sec. 20-52. Application.

Application for a massage therapist's business permit shall be made to the city clerk by the holder of the establishment license as set forth in Article II and shall be made at the same time and in the same manner as provided therein, except where the massage therapist is not employed by the establishment at the time of its annual application, in which case the application shall be made and a massage therapist's license secured before the massage therapist may engage in any activity regulated under this ordinance, and shall be accompanied by the annual nonrefundable massage therapist's permit fee as set from time to time by resolution of the council. The application shall contain but not be limited to the following:

(1) – (7) [Unchanged]

(8) Two (2) recent front-face portrait photographs ~~taken within thirty (30) days of the date of application and~~ at least two (2) inches by two (2) inches in size;

(9) – (12) [Unchanged]

(13) A medical certificate signed by a physician licensed to practice in the state within ~~seven~~ thirty (30) days of the date of the application stating that the applicant was examined by the

certifying physician and that the applicant is free of communicable disease. The additional information required by this subsection shall be provided at the applicant's expense;

(14) – (16) [Unchanged]

PART II.

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART III.

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART IV.

Effective Date: Publication. The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI,
OAKLAND COUNTY, MICHIGAN, ON THE ___ DAY OF _____, 2009.

DAVID B. LANDRY – MAYOR

MARYANNE CORNELIUS – CITY CLERK

Ayes:
Nays:
Abstentions:
Absent:

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI
ORDINANCE NO. 09-120.10

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DAVID B. LANDRY – MAYOR

MARYANNE CORNELIUS – CITY CLERK

Ayes:
Nays:
Abstentions:
Absent: