

***The City of Roeland Park,
Kansas***



***APPLICATION FOR
MASSAGE BUSINESS LICENSE***

**Ordinance
and
Application Form**

Effective 1/1/04, Approved by Council 12/3/03



The City of Roeland Park, Kansas

4600 West Fifty-First Street
Roeland Park, Kansas 66205
City Hall (913) 722-2600 - Fax (913) 722-3713

To be filled in by City: City of Roeland Park, Kansas
Date filed: _____ **APPLICATION FOR BUSINESS PERMIT**
Case no.: _____ **Massage Establishment**

FEES. Every applicant for a permit to maintain or operate any such establishment shall file an application with the city council and pay an annual fee of \$150 which shall not be refundable or pro-rated.

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

Name: _____

Address: _____

City/St/Zip _____

Phone Number _____

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

Attach the following documents/information:

1. Copy of Drivers License/Identification
2. Two portrait photographs, at least two inches by two inches, and fingerprints.
3. Business, occupation or employment of the applicant for the three years immediately preceding the date of application.
4. A health certificate from a duly licensed physician stating that the applicant has, within 30 days prior thereto, been examined and found to be free of any contagious or communicable disease.
5. Name and address of the recognized school attended, the date attended and a copy of the diploma or certificate of graduation awarded the applicant showing the applicant has successfully completed not less than 70 hours of instruction in the theory, method or practice of massage.

6. Have you had your license revoked or suspended in another other city or state, the reason therefor, and the business activity of occupation subsequent to such action of suspension or revocation.

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

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. Form attached.

(Including any applicable requirements as set out in the City Code.)

Approved by council: Date _____

Excerpt of Roeland Park City Code, Chapter 5, Article 3

ARTICLE 3. MASSAGE ESTABLISHMENTS, BATH HOUSES

5-301. DEFINITIONS. For the purposes of this article, the following words shall mean:

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

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

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

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

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

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

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

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

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

(Code 1977, 7-301)

5-302. BUSINESS PERMIT REQUIRED. It shall be unlawful for any person, firm, partnership, association or corporation, within the city limits, to act as agent or cause the solicitation, advertising or promotion by telephone, newspaper, radio, television or other means, or participate directly or indirectly in or for the operation of a bath house, massage establishment, body painting studio or modeling studio as defined herein, or carry on such activities for or on behalf of any person engaged in the activity of such establishment without first obtaining a permit therefore issued by the governing body. A separate permit shall be required for each and every separate place of business conducted by any one permittee, such permit shall be valid only from January 1 to December 31 of each year. No such permit shall be

issued unless the bath house, massage establishment, body painting studio or modeling studio, or any person, firm, partnership, association or corporation engaged in the activity of such establishment, fully complies with the provisions of this article, regardless of the location of such establishment or place where such activity is conducted. The location of each such establishment or place where such activity is conducted shall at all times be on file with the city clerk. (Code 1977, 7-302)

(Revised Ordinance 743, Dated December 3, 2003 effective 1/1/04)

5-303. *APPLICATION FOR BUSINESS PERMIT – FEES. Every applicant for a permit to maintain or operate any such establishment shall file an application with the city council and pay an annual fee of \$150 which shall not be refundable or pro-rated.*

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

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

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

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

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

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

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

(f) In the case of a bath house, massage establishment, modeling studio or body painting studio application, each person shall submit a health certificate from a duly licensed physician stating that the applicant has, within 30 days prior thereto, been examined and found to be free of any contagious or communicable disease.

(g) 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.

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

(Code 1977, 7-303; Code 1986)

5-305. **REVOCAION OR SUSPENSION OF BUSINESS PERMIT.** (a) Any permit issued for a massage establishment, bath house, modeling studio or body painting studio may be revoked or suspended by the governing body after a public hearing before the governing body where it is found that any of the provisions of this article are violated or where the permittee or any employee of the permittee, including a masseur or masseuse, has been convicted of any offense found herein and the permittee has actual or constructive knowledge of the violation or conviction, or in any case, where the permittee or licensee refuses to permit any duly authorized

police officer or health inspector of the city to inspect the premises or the operations therein.

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

(Code 1977, 4-305)

5-306. EMPLOYEE PERMIT REQUIRED. No person shall be employed as an attendant, masseur, masseuse, model or as an employee of any kind in any establishment subject to the provisions of this article unless he or she has a valid employee's permit issued by the city pursuant to the provisions of this article. (Code 1977, 7-306)

5-307. APPLICATION FOR EMPLOYEE PERMIT; FEES. Any person employed to perform any services in a massage establishment, bath house, modeling studio or body painting studio, as defined herein, shall file a written application for an employee permit with the chief of police and pay a filing fee to the city clerk of \$10 which shall not be refundable or pro-rated. The permit shall be issued for one year and renewed annually on January 1 of each year.

The application for an employee permit shall contain the following:

(a) Name, address and telephone number.

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

(c) Applicant's weight, height, color of hair and eyes and fingerprints.

(d) Written evidence that the applicant is at least 18 years old.

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

(f) 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.

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

(h) A statement in writing from a licensed physician that he or she has examined the applicant and believes the applicant to be free of all communicable diseases.

(i) 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.

(Code 1977, 7-307)

5-308. EDUCATION REQUIREMENTS; MASSEUR OR MASSEUSE. Any person, including an applicant for a massage establishment permit who engages or intends to engage in the practice of massage as herein defined, shall upon making application for a permit, supply the name and address of the recognized school attended, the date attended and a copy of the diploma or certificate of graduation awarded the applicant showing the applicant has successfully completed not less than 70 hours of instruction in the theory, method or practice of massage. (Code 1977, 7-308)

5-309. ISSUANCE OF EMPLOYEE PERMIT. The chief of police shall issue an employee permit within 10 days following application unless he or she finds that:

(a) The applicant for the employee permit has been convicted of (1) a felony, (2) an offense involving sexual misconduct with children, (3) obscenity, keeping or residing in a house of ill fame, solicitation of a lewd or unlawful act, prostitution or pandering.

(b) 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.

(c) The correct permit fee has not been paid to the city.

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

(Code 1977, 7-309)

5-310. IDENTIFICATION CARDS. Each employee issued a permit by the chief of police under the provisions of this article shall, at all times when working in an establishment subject to the provisions of this article, have in his or her 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 card shall be laminated to prevent alteration. Provided, that all persons granted permits under this article shall at all times keep such permits available for inspection upon request of any person who by law may inspect such permits. (Code 1977, 7-310)

5-311. REVOCATION OF EMPLOYEE PERMIT. Reasons allowed for revocation or suspension of employee permit are as follows:

(a) An employee permit issued by the chief of police shall be revoked or suspended after a public hearing before the chief of police or his or her designated representative where it appears that the employee has been convicted of any offense enumerated in this article.

(b) The chief of police, before revoking or suspending any employee permit, shall give the employee at least 10 days' written notice of the examination into his or her conviction record and the opportunity for a public hearing before the chief of police or his or her designated representative, at which hearing the relevant facts regarding the occurrence of the conviction shall be determined.

(Code 1977, 7-311)

5-312. FACILITIES NECESSARY. No permit to conduct such establishment shall be issued unless an inspection by the health officer or his or her authorized representative reveals that the establishment complies with each of the following minimum requirements:

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

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

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

The health officer shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the chief of police. Provided, however, that nothing contained herein

shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance or premises, nor to preclude authorized inspection thereof. (Code 1977, 7-312)

5-313. INSPECTIONS, IMMEDIATE RIGHT OF ENTRY. The police department and the department of health and sanitation may from time to time make an inspection of each permitted establishment in this city for the purposes of determining that the provisions of this article are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer immediate access to the premises or to hinder such officer in any manner. Provided further, that any failure on the part of any permittee or employee to grant immediate access to such inspector shall be grounds for the revocation or suspension of any business or employee permit. (Code 1977, 7-313)

5-314. OPERATION REGULATIONS. The operation of any such establishment shall be subject to the following regulations:

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

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

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

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

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

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

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

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

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

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

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

(Code 1977, 7-314)

5-315. SUPERVISION. A permittee shall have the premises supervised at all times when open for business. Any business rendering massage services shall have one person who qualifies as a masseur or masseuse on the premises at all times while the establishment is open. The permittee shall personally supervise the business,

and shall not violate or permit others to violate, any applicable provision of this article. The violation of any such provision by any agent or employee of the permittee shall constitute a violation by the permittee. (Code 1977, 7-315)

5-316. EMPLOYEE REGISTRATION. All operators permitted under the provisions of this article shall keep and maintain on their premises a current register of all their employees showing such employee's name, address and permit number. Such register shall be open to inspection at all reasonable times by any health inspector or members of the city police department. (Code 1986)

5-317. AGE RESTRICTION. No person shall permit any person under the age of 18 years of age to come or remain on the premises of any permitted business establishment as masseur, employee or patron, unless such person is on the premises on lawful business. (Code 1977, 7-316)

5-318. ADVERTISING. No establishment granted a permit under provisions of this article shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than those services as described in this article, or that employees, masseurs or masseuses are dressed in any manner other than described in this article, nor shall any establishment indicate in the text of such advertising that any service is available other than those services described in this article. (Code 1977, 7-317)

5-319. TRANSFER OF PERMITS; OTHER LICENSES AND FEES. (a) No massage business, bath house, modeling studio, body painting studio or employee permits are transferable, separate or divisible, and such authority as a permit confers shall be conferred only on the permittee named therein.

(b) Any applications made, fees paid and permits obtained under the provisions of this article shall be in addition to and not in lieu of any other fees, permits or licenses required to be paid or obtained under any other laws of this city. (Code 1977, 7-318)

5-320. EXCEPTIONS. The provisions of this article shall not apply to hospitals, nursing homes, sanitariums or persons holding an unrevoked certificate to practice the healing arts under the laws of this state, or persons working under the direction of any such persons or in any such establishment, nor shall this article apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by this state. (Code 1977, 7-320)

5-321. FURTHER REGULATIONS. The city council, through the chief of police or the health officer may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this article. (Code 1977, 7-320)

5-322. RESTRICTION OF BUSINESS TO PREMISES. All business or activity provided for under this article shall be conducted and performed on the respective premises; provided, however, that bath house or massage shop permittees or employees at the direction of a duly licensed physician may perform their services in behalf of physically incapacitated patients in such patient's home, residence or other designated place, or such permittee or employee, may render such treatment to persons who are bedfast or are so physically incapacitated that it is impractical to provide same to such persons at a permitted location, and provided further that all such services so rendered shall have received the prior approval of the chief of police or health officer or their authorized representative. (Code 1977, 7-321)

ARTICLE 6. HOME OCCUPATIONS

5-601. DEFINITION. A home occupation is an accessory use by the occupant(s) of a dwelling unit in which goods are produced or traded, or services are rendered as an economic enterprise. Such use shall be clearly incidental or subordinate to the residential use of a dwelling. (Ord. 481, Sec. 1)

5-602. CRITERIA. A home occupation is permitted as an accessory use of a dwelling only when all of the following criteria are met:

(a) No person or persons shall be engaged in such home occupation other than that person or those persons occupying such dwelling as his or her residence; provided, however, the person or persons engaged in such home occupation may have non-resident employees so long as no parking on the public right-of-way shall occur as a result of such employment and such employment does not otherwise disturb the residential character of the neighborhood;

(b) No alteration to the dwelling, building, premises, or property, shall be made, which changes the external appearance of the dwelling, premise or property, in a manner that causes the structure to lose its residential character or detract from the residential character of the neighborhood;

(c) The home occupation shall be conducted entirely within the main dwelling building and no such home occupation shall be conducted in an accessory building, garage, or structure, whether attached or detached;

(d) The home occupation shall not occupy more than 25 percent of the floor area of the dwelling;

(e) There shall be no outside storage of any equipment, machinery or materials used in the home occupation;

(f) There shall be no storage in the dwelling or anywhere upon the premises or property of any toxic materials or toxic chemicals for resale or use in the home occupation;

(g) No commercial exchange of tangible goods or other items constituting a sale between the person or persons conducting the home occupation and members of the general public shall be permitted on the premises of the home occupation. Members of the general public shall not include persons in the home by prior individualized invitation;

(h) No sign or signs shall be permitted;

(i) No home occupation shall be permitted which generates, results in, or contributes to traffic (vehicular or pedestrian), parking, sewage, or water use in excess of what is usual and normal in the residential neighborhood;

(j) No home occupation shall be permitted which creates, or has the potential to create, a hazard or danger to the health, care, safety or welfare of any person or property, including any person at, in or occupying the dwelling or any property, real or personal, at the dwelling;

(k) No home occupation shall be permitted which results in or contributes to electrical disturbance or interference of any sort;

(l) No home occupation shall be permitted which is, may be, or has the potential to become a nuisance, public or private;

(m) No home occupation shall be permitted unless the person or persons conducting such home occupation shall have first paid in full their annual city occupation tax;

(n) No home occupation shall be permitted, if such occupation is subject to any other laws of the city, the laws of Johnson County, the State of Kansas, or the United States, which require persons conducting such an occupation first to obtain approval from such governmental authorities before commencing such occupation and maintaining approval while the occupation is conducted, and the approval has not been obtained or maintained; or

(o) No home occupation shall be permitted which may be unlawful under the laws of the city, the laws of Johnson County, the State of Kansas, or the United States, or any rules or regulations of the city, county, state or United States.
(Ord. 481, Sec. 2)

5-603. PERMITTED OCCUPATIONS. The following are permitted home occupations providing they do not violate any of the provisions of section 5-602:

- (a) Accountant;
- (b) Architect;
- (c) Artist, Painter, Sculptor;
- (d) Babysitting, no more than three children at any one time;
- (e) Chiropractor;
- (f) Clergyman;
- (g) Computer Programmer;
- (h) Dentist;
- (i) Dressmaker, Seamstress, Tailor;
- (j) Engineer;
- (k) Firearms Dealer, provided that gross sales do not exceed \$5,000 per year, that every person dealing firearms has a current valid federal firearms license and that not more than 12 transactions occur at the residence during any calendar year;
- (l) Home Cooking and Preserving;
- (m) Home Crafts, Model Making, Rug Weaving, Lapidary, Woodwork, Cabinet Work;
- (n) Insurance Agent;
- (o) Lawyer;
- (p) Osteopath;
- (q) Photographer;
- (r) Physician;
- (s) Psychologist;
- (t) Psychiatrist;
- (u) Real Estate Agent;
- (v) Telephone Answering;
- (w) Typist;
- (x) Teacher - Tutor, with no more than three students taught at any one time;
- (y) Foster Family Care;
- (z) Beauty Parlors, Cosmetologists; and
- (aa) Barber Shops.

(Ord. 639, Sec. 1)

5-604. PROHIBITED OCCUPATIONS. The following are prohibited as home occupations:

- (a) Dance Studios;
- (b) Veterinary Clinics, Animal Hospitals, Stables, Kennels;
- (c) Funeral Homes, Mortuaries;
- (d) Nursery Schools;
- (e) Private Clubs;
- (f) Automotive Repair or Paint Shops;
- (g) Appliance or Equipment Repair Shops;
- (h) Tourist Homes; and
- (i) Boarding House.

(Ord. 481, Sec. 4)