

8.40.110 - Massage bodywork therapist permit.

No person shall practice as a massage and/or bodywork therapist, proprietor, employee or otherwise, unless he/she has a valid and subsisting massage therapist permit issued by the city clerk's Office, pursuant to the provisions of this chapter. An application for a permit shall be submitted to the clerk of the city of Mills who will forward the application to the Mills Police Department for the purpose of conducting background checks and fingerprinting.

8.40.120 - Application for massage establishment license.

A. Any person desiring to engage in the business, trade, profession, operation or conduct of a massage establishment as provided in this chapter shall, before engaging in such business, file an application and pay an application fee of one hundred dollars for a license in the office of the Mills City Clerk. The application once accepted shall be referred to the Mills Police Department for investigation of the applicant's background including the submission of fingerprints.

The requirements of the application are:

1. The full and true name(s) and any other name(s) used by each applicant (hereinafter all provisions which refer to the applicant include any applicant which may be a corporation or partnership, LLC, etc.);
2. The present address and telephone number and a valid driver's license or social security number of each applicant.
 - a. If the applicant is a corporation, partnership, limited partnership, LLC, etc., hereafter business entity, the names and residence addresses of each of the officers and directors of said business entity owning more than ten percent of the business entity, and the address of the business entity, if different from the address of the massage establishment;
3. The location, mailing address, and all telephone numbers where the massage establishment is to be conducted;
4. The prior addresses for three years immediately prior to the date the application for a business license and/or permit of the applicant is submitted to the city clerk's office;
5. Proof that the applicant is over the age of majority;
6. The massage or similar business history of each applicant; whether such person, in previously operating in this or another city, county or state, has had a business license or permit revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation;

7. The name and address of each massage therapist who is or will be employed in such establishment;

8. Authorization for the Mills Police Department, its agents and employees to seek information and conduct a national background investigation with fingerprinting, and an investigation into the truth of the statements set forth in the application. The applicant shall be fingerprinted at the Mills Police Department; and

9. The applicant shall notify the clerk's office, who in turn will notify the Mills Police Department, of any change in any of the data required to be furnished by this section within seven business days after such change occurs.

Upon completion of the application and the furnishings of all the foregoing information, the Mills City Clerk's Office shall accept the application for processing and forward the application to the Mills Police Department to begin the background check process.

8.40.130 - Application for massage and/or bodywork therapist permit.

The application, and application fee of sixty dollars to apply for a massage therapist permit shall be made to the city clerk's office with the same requirements, and in the manner, as provided in [Section 8.40.120](#), for a massage establishment license. In addition, the application shall contain the following:

- A. Proof of not less than three hundred thousand dollars in general liability insurance coverage;
- B. Proof that the applicant has graduated from a massage therapy school as defined by this chapter;
- C. Proof that the applicant has passed the MBLEx Examination administered by the Federation of State Massage Therapy Boards or administered by an organization approved by the city clerk's office.

8.40.140 - Issuance of license for a massage establishment or permit for a massage therapist.

A. Upon completion of the application review, the city clerk may issue a license for a massage establishment and/or a permit for a massage and/or bodywork therapist to any person if all requirements for a massage establishment license or massage therapist permit as described in this chapter are met unless the city clerk's office finds:

- 1. The operation, as proposed by the applicant, if permitted, would not comply with this code chapter; or
- 2. The applicant, if an individual or if a business entity owner owning ten percent or more of the entity and the officers, members, partners and directors of the

entity, or the holder of any lien, of any nature, upon the business and/or the equipment used therein, and the manager or other person principally in charge of the operation of the business, have been convicted of any of the following offenses or convicted of an offense, that would have constituted any of the following offenses if committed within the last ten years within the state of Wyoming:

a. An offense involving the use of force and violence upon the person of another that amounts to a felony or would qualify as domestic violence; or

b. An offense involving sexual misconduct; or

c. An offense involving narcotics, dangerous drugs or dangerous weapons that amounts to a felony; or

3. The applicant, if an individual, or business entity owner owning ten percent or more of the entity, and the officers, members, partners, and directors of the entity, or the holder of any lien, of any nature upon the business and/or the manager or other person principally in charge of the business has after reaching the age of majority been convicted, including pleas of guilty or nolo contendere, or any offense in Wyoming or any other jurisdiction containing the same elements, or arising out of the same or similar facts or circumstances which requires registry as a sex offender; or

4. The applicant has knowingly made any false, misleading or fraudulent statement of fact in the license or permit application or in any document required by the applicant; or

5. The applicant, if an individual, or any of the officers, directors, members or owners owning ten percent or more of the business entity, or manager or other person principally in charge of the operation of the business, is not over the age of eighteen years old.

8.40.150 - Approval or denial of application.

The city of Mills Clerk's Office (hereafter clerk's office) shall act to approve or deny an application for licenses and permits under this section within ten business days no., after the reception of recommendation letter from the chief of police, or his or her designee, based on the applicant's ability to meet and maintain the requirements regarding the applicant's criminal background and history as required in this chapter.

8.40.160 - Reserved.

8.40.170 - Reserved.

8.40.180 - Massage establishment operating requirements.

No person or business entity shall engage in, conduct or carry on, or permit to engage in, conduct or carry on, the operation of a massage establishment unless each and all of the following requirements are met. If the requirements are not met or violated such act or omission is a violation of this chapter and is unlawful;

A. Each person employed or acting as a massage and/or bodywork therapist shall have a valid permit issued pursuant to the provisions of this chapter, and it shall be a violation of this chapter for any owner, operator, responsible managing employee, manager, or licensee in charge of or in control of a massage establishment to employ or allow a person to act as a massage and/or bodywork therapist who is not in possession of a valid permit;

B. When a health officer or his or her designee has reasonable cause to suspect possible disease transmission by an employee of a massage establishment, he/she may secure a morbidity history of the suspected employee or make any other investigation as indicated and shall take appropriate action.

8.40.190 - Massage therapist operating requirements.

No person will engage in, conduct or carry on the practice of a massage therapist unless each of the following requirements are met; if the requirements are not met or violated such act or omission is a violation of this chapter and is unlawful:

A. Possession of a valid permit issued pursuant to the provisions of this chapter, a copy of which will be made available upon request.

8.40.200 - Transfer of permit.

No license or permit shall be transferable.

8.40.210 - Sale or transfer location.

Upon an application for sale or relocation of a massage establishment, the application shall be treated as a new facility.

8.40.220 - Name and place of business.

No person granted a license pursuant to this chapter shall operate the massage establishment under a name not specified in his/her license, nor shall he/she conduct business under any designation or location not specified in his/her license. Off premises massage service can be included in approved establishment's or permittee's permit.

8.40.230 - Traveling massage therapists; exceptions.

A.

The practice of massage therapy by a person who is a resident of another state and is licensed by the state or local government of such residency or who can legally practice massage therapy in such state, or a person who is a Wyoming resident practicing massage therapy but is not a resident of the city of Mills, who is in Mills temporarily may practice massage therapy no more than ten days in any one calendar year, under one of the following circumstances:

- A. The person is traveling with and administering massage therapy to members of a professional, collegiate, or amateur sports organization, or dance troupe, music, theatrical or other performing arts group, or other athletic organization;
- B. The person provides massage therapy at a public athletic event such as the Olympic games, Special Olympics, youth Olympics, or marathons if the massage therapy is provided no earlier than forty-eight hours prior to the commencement of the event and no later than twenty-four hours after the conclusion of the event;
- C. The person is part of an emergency response team or is otherwise working with or for disaster relief officials to provide massage therapy in connection with a disaster situation; or
- D. The person is participating as a student in or instructor of an educational program which meets the requirements of "school" as defined under this chapter.

8.40.240 - Denial, suspension or revocation of license or permit.

A. Should a permit be denied for any reason set forth in this Code the following procedure shall apply:

1. Within three business days of the denial of an application for a massage establishment license, or a massage therapist permit, the applicant may file with the city clerk's office a written request for an appeal hearing. At such hearing, to be held at a reasonable time after receipt of request, evidence shall be received for the purpose of determining whether or not such denial shall be upheld. During the hearing, all requirements of the Wyoming Administrative Procedures Act shall be followed and an independent hearing officer, a member of the Wyoming State Bar, shall be retained to conduct such hearing and render a decision on the issue(s).

2. Any individual who has practiced massage therapy, or has owned a massage establishment in Mills, Wyoming, for at least twelve months preceding the denial of their application for permit or license, may continue to practice massage therapy and/or operate their massage establishment throughout their appeal process.

B. The notification of the reasons for such decisions shall be set forth in writing and sent to the applicant by means of registered or certified mail or hand delivery.

C. Suspension or Revocation. Any massage establishment license or massage therapist permit shall be subject to a non-arbitrary suspension or revocation by the city clerk's office for a violation in the issuance of such permit in the first instance, or for the

violation of any law regulating massage establishments or massage therapists. A suspension of five days or more or a revocation may be appealed pursuant to the procedure referred in the preceding two paragraphs.

D. Grandfather Provision. Any individual who has practiced massage therapy or bodywork, may upon paying a fee of sixty dollars, be granted a massage therapist permit to practice in this city without being required to have five hundred hours of schooling and to take an examination, if the applicant provides evidence satisfactory to the clerk as follows:

1. Actively practiced in Mills, Wyoming for at least two of the last three years prior to the effective date of this ordinance [from which this section derives]; and

2. Graduated from a school of massage or massage therapy program approved by the clerk's office which may be proven by presentation of a diploma or by providing credentials or a professional portfolio or passed an examination acceptable to the clerk; and

3. Is not subject to suspension, revocation, or otherwise restricted in any manner for disciplinary purposes; and

4. Qualifies for licensure or permit under this section pursuant to the background check and fingerprinting provisions; and

5. Denial of an application or suspension, or revocation of a permit issued pursuant to the grandfather provision shall follow the same appeal process as set out subsections A. through C above.

8.40.250 - Exemptions for professional practices.

The following persons practicing massage therapy or bodywork while providing one of the professional services as set out in this section are exempt from the provisions of this chapter concerning massage therapy:

A. Physicians, physician's assistants, surgeons, chiropractors, osteopaths, occupational therapists, or physical therapists who are licensed to practice their respective profession in the state of Wyoming.

B. Registered nurses, licensed practical nurses, and certified nursing assistants performing massage services in the course of their usual nursing duties.

C. Barbers or beauticians who are licensed under the laws of this state, except that this exemption shall apply solely to the massaging of the neck, face, scalp and hair of the customer or client for cosmetic beautifying purposes.

D. Cosmetologists and nail technicians who are licensed under the laws of this state, except that this exemption shall solely apply to the massaging of the customer or client's lower leg, starting at the section of the leg at and below the customer or client's kneecap and including their ankles, and feet; and the customer or clients' arms, starting at the customer or client's shoulder to their fingertips.

E. Hospitals, clinics, nursing and convalescent homes, and other similarly licensed health care facilities.

8.40.260 - Renewal procedures.

A. Any massage establishment license or massage therapist permit issued under the provisions of this chapter shall be valid for two years from the date of issuance.

B. Any person holding a valid massage establishment license or a valid therapist permit who wishes to renew the same shall submit to the city clerk's office no less than sixty days, but no more than ninety days prior to the renewal date the same information and documentation as required for the initial issuance as previously set forth herein.

C. The city clerk's office shall act to approve or deny an application for renewal of a permit under this chapter within a reasonable period of time and in no event shall the city clerk's office act to approve or deny said permit later than thirty days from the date and said renewal application was accepted and found to be complete by the city clerk's office.

8.40.270 - Severability and effective date.

If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

8.40.280 - Violation penalty.

A. Any person or business entity violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and may be punishable by a fine up to seven hundred and fifty dollars, six months incarceration or both. Ongoing violations are separate occurrences and may result in additional charges.

B. The owner of any premises located in the City of Mills which knowingly allows a tenant or occupant of a premises to operate in violation of the provision of this chapter shall be deemed guilty of a misdemeanor and may be punishable by a fine up to seven hundred and fifty dollars.

C. Should any person or business entity, including an owner of a premises described in Section 8.40.280(B) be cited twice in a five-year period under this section, the City of Mills may, in addition to the remedies and provisions otherwise set forth herein, regard the premises as a public nuisance and seek equitable relief in a court of competent jurisdiction, including, but not limited to, seeking an injunction precluding said person or business entity from continuing on in business in the City of Mills and precluding the owners of such a premises from allowing it to be occupied by a person or business entity that has been found to be in violation of this chapter.