TO: Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
DATE: September 4, 2008
SUBJECT: Re-numbering Massage Facility License

At the September 8, 2008 City Council meeting, the Massage Facility License was approved. At that time, the ordinance was identified as Chapter 91. Due to a numbering irregularity, the Chapter needs to be re-numbered. Since the massage parlor provisions were previously contained in Chapter 98, Council may wish to identify the Massage Facility License as Chapter 98-A, which would be where persons would logically look for the ordinance provisions under the current numbering structure. This can be accomplished by City Council resolution, since the ordinance has not yet been published. The entire City Code organization and numbering structure will be revisited in the codification process, which is now underway.

If you have any questions concerning the above, please let me know.

CHAPTER 98 A - MASSAGE FACILITY LICENSE

1. Definitions:

For the purpose of the provisions of this Chapter, the following words and phrases shall be construed to have the meanings herein set forth, unless it is apparent from the context that a different meaning is intended.

(a) "Employee" means any person other than a massage therapist, who renders any service in connection with the operation of a Massage Facility and receives compensation from the operator of the business or patrons. This includes a leased employee or subcontractor.

(b) "Licensee" means the person to whom a license has been issued to own or operate a Massage Facility as defined herein.

(c) "Manager" means an operator, other than a licensee, who is employed by a Massage Facility to act as a manager or supervisor of employees, independent massage therapists, or independent contractors, or is otherwise responsible for the operation of the business.

(d) "Massage" means the treating of external parts of the body for remedial or hygienic purposes, consisting of stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating with the hands or with the aid of any mechanical or electrical apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided shall pay any consideration whatsoever. For purposes of this Chapter, the term "bodywork" is included in the definition of massage.

(e) "Massage facility" means any individual, group of individuals, person or business which engages in the practice of massage as defined in subsection 1(d), and which has a fixed place of business where any person, firm, association, partnership, limited liability company or corporation carries on any of the activities as defined in subsection 1(d). Massage Facility also includes a Turkish bath parlor, steam bath, sauna, magnetic healing institute, health club, health spa, or physical fitness club or business that offers massages on occasion or incidental to its principal operation.

(f) "Massage therapist" means any person who engages in the practice of massage as defined in subsection 1(d). Use of the word "massage therapist" in this Chapter shall include massage therapist, masseurs, masseuses and all others engaged in massage.

(g) "Massage School" means a school which is licensed by the State of Michigan Board of Education as required by P.A. 148 of 1943 (MCLA 395.101, et. seq.) with a class hour requirement of at least 500 hours and which requires for admission students with a tenth grade education, which has minimum requirements of a

continuous course of study and training consisting of studies in physiology, anatomy, massage theory, hydrotherapy, hygiene, ethics, and practical massage, and which employs as instructors one or more massage therapists meeting all of the following criteria:

(1) Graduate of a state licensed school with a minimum of 500 hours of education.

(2) A minimum of five years of experience as an instructor at a recognized school and/or massage therapist, and proof of such experience.

(3) For the purpose of this Chapter, a correspondence school or a school outside the United States is not a recognized school or massage school.

(h) "Patron" means any person who receives a massage under such circumstances that it is reasonably expected that he or she shall pay money or give any other consideration for the massage.

(i) "Person" means any individual, partnership, firm, association, joint stock company, limited liability company, corporation or combination of individuals or business entities of whatever form or character.

2. Facility License required:

Except as set forth in Section 3, no person shall operate a Massage Facility without obtaining a valid Massage Facility License for each separate office or place of business address. A Massage Facility License shall be renewed on an annual basis and cover the licensing period of January 1st to December 31st of each year.

The requirement to obtain a new Massage Facility License for the remainder of the 2008 calendar year is waived for those massage facilities that are properly licensed under the City's previous licensing requirements. However, commencing January 1, 2009, all massage facilities are required to comply with the provisions of this ordinance.

3. Exemptions for Massage Facility Licensing:

The following facilities are exempt from the requirement of a Massage Facility License:

(a) Hospitals, medical facilities, medical offices where massage therapists engage in the performance of massage under the supervision of and in conjunction with the professional practices of physicians, surgeons, chiropractors, osteopaths, physical therapists or other recognized medical professionals who are fully licensed to practice their respective professions in the State of Michigan.

(b) Hospitals, medical facilities, medical offices, or other facilities where nurses who are registered and licensed under the laws of the State of Michigan perform massages.

(c) A facility which, as its primary function, is a gymnasium, fitness center with weight lifting/ body building/ body strengthening equipment, a sports training facility, or a sports or fitness facility in which massage therapy is an integral part of the

relaxation and/or treatment of muscle groups for sports or fitness conditioning.

(d) A facility, including a school of cosmetology and/or beauty school that administers massage to the face, head, neck and shoulders only as part of cosmetic or beautifying processes.

(e) A massage therapist or a group of massage therapists who administer massage for not more than 10 days in any calendar year at the same location and/or address, as long as there is no sale of merchandise at the temporary location other than merchandise directly related to massage. Individual massage therapists shall register with the Clerk, as provided in Section 4.

4. Massage Therapist Registration; Fee.

No individual shall act as a massage therapist in the City of Troy without first registering with the City Clerk and paying the registration fee as set out in Chapter 60. The registration fee shall be paid on an annual basis and cover the registration period from January 1st to December 31st of each year. An individual massage therapist administering massage at a location other than a Massage Facility shall only sell merchandise related to massage.

A massage therapist must complete a registration form, which will be kept in the ordinary course of business by the City Clerk. To satisfy the registration requirement the massage therapist must fully complete the registration form provided by the City Clerk, and must supply the following information under oath:

A. The full name, home address, telephone number and date of birth of the massage therapist;
B. A copy of the massage therapist's driver's license with photo identification or other government issued photo identification;
C. The name and address of the massage school attended by the massage therapist;
D. Proof that the massage therapist has completed the required course of study from a massage school that meets the requirements of Section 1(g) of this Chapter (certificate of completion).

A massage therapist shall display his/her registration at all locations where massage is administered.

5. Application for Massage Facility License; Fees:

Every applicant for a license to maintain, operate or conduct a Massage Facility shall file an application with the City Clerk's office upon the form provided by the City of Troy and pay the nonrefundable application investigation fee, which is set forth in Chapter 60. The applicant shall provide the following information, which shall be sworn to under oath:

(a) A description of services to be provided.

(b) The location, mailing address and all telephone numbers for the massage facility.

(c) The name and permanent residential address of the applicant(s).

(1) If the applicant is a corporation, the names and permanent residential addresses of each of the officers, directors and resident agents of said corporation and of each stockholder owning more than ten (10) percent of the stock of the corporation; the address of the corporation itself, if different from the address of the massage facility; and the name and address of a resident agent in Oakland County, Michigan.

(2) If the applicant is a partnership, the names and permanent residential addresses of each of the partners and limited partners and of the partnership itself, if different from the address of the massage facility; and the name and address of a resident agent in Oakland County, Michigan.

(d) The applicant's two (2) immediately preceding addresses.

(e) Proof that each individual applicant is at least eighteen (18) years of age.

(f) The height, weight, sex and color of eyes and hair of each individual applicant or each partner of a partnership applicant.

(g) A copy of identification, such as driver's license, which bears a date of birth for each individual applicant or each partner for a partnership applicant, or each officer, director, stockholder and resident agent for a corporation applicant.

(h) One front face current portrait photograph of the individual applicant(s), which is at least two inches by two inches (2" x 2"), and a complete set of the individual applicant(s) fingerprints, which shall be taken by the Chief of Police or his agent.

(1) If the applicant is a corporation, one front face current portrait photograph, which is at least two inches by two inches (2" x 2"), of all officers and resident agents of said corporation and a complete set of the same officers', directors' and resident agents' fingerprints, which shall be taken by the Chief of Police or his agent.

(2) If the applicant is a partnership, one front-face current portrait photograph, which is at least two inches by two inches (2" x 2") in size of each partner, including a limited partner in said partnership, and a complete set of each partner or limited partner's fingerprints, which shall be taken by the Chief of Police or his agents.

(i) The business, occupation, or employment of the applicant(s) for the three (3) years immediately preceding the date of application.

(j) The massage or similar business history of the applicant(s);

(k) A statement of whether or not the applicant(s) currently operates or previously operated a massage business in this or another municipality or state;

(l) A statement of whether or not the applicant(s) had a business license of any kind revoked or suspended and the reason for the suspension or revocation;

(m) All of the individual applicant's criminal convictions (other than misdemeanor traffic

violations not involving a controlled substance or alcohol), and the dates of conviction(s), the nature of the crime(s) and court or tribunal where the matter was adjudicated.

(1) If the applicant is a corporation, the criminal convictions (other than misdemeanor traffic violations not involving a controlled substance or alcohol), and the dates of conviction(s), the nature of the crime(s), and the court or tribunal where the matter was adjudicated for all of the officers and resident agents of the corporation.

(2) If the applicant is a partnership, the criminal convictions (other than misdemeanor traffic violations not involving a controlled substance or alcohol), and the dates of conviction(s), the nature of the crime(s), and the court or tribunal where the matter was adjudicated for each partner, including a limited partner in the partnership.

(n) The names, addresses, birth dates and driver's license numbers of each massage therapist and each employee or independent contractor who is or will be employed in said facility.

(o) The name, address, birth dates and driver's license number of each individual who will be a manager, acting manager or in charge of each facility.

(p) Applicant(s) must furnish a certified copy of a diploma or certificate of graduation from a school licensed pursuant to P.A. 148 of 1943 (MCLA 395.101, et. seq.) by the Michigan Board of Education or an equivalent license from another state for themselves and each massage therapist who may be doing massage at the massage facility, provided, however, that if the applicant(s) will not himself or herself engage in the practice of massage, he or she need not furnish such a diploma or certificate of graduation.

(q) The name and addresses of any massage businesses facility or other facility owned or operated by any person whose name is required to be given in subsection 5(c).

(r) A description of any other business(es) to be operated on the same premises or on adjoining premises owned or controlled by the applicant(s).

(s) An authorization for the City, its agents and employees to seek information and conduct an investigation to verify the veracity of the information contained in the application and the qualifications of the applicant(s), including but not limited to authorization to conduct a LEIN records check of all applicants, employees, officers, directors, resident agents or stockholders.

(t) The names, current addresses and written statements of at least three (3) bona fide permanent residents of the United States that the applicant is of good moral character. If possible, the statements must first be furnished from residents of the City of Troy. If the applicant cannot provide these statements from residents of the City of Troy, then the statements can be provided by residents of the County of Oakland. If the applicant cannot provide these statements from residents of Oakland County, then the statements can be from residents of the State of

Michigan, and lastly from the rest of the United States. These statements or references must be from persons other than relatives and business associates.

(u) Evidence of current valid premises liability, workers compensation and general liability insurance for the massage facility, in an amount of two hundred fifty thousand dollars ($250,000.00) or more.

(v) All information required by this section shall be provided at the applicant's expense.

If there is any change to the above required information from the information that is provided with the application, the Massage Facility licensee is required to notify the City of Troy of each such change within thirty (30) days after such change occurs. Any such change may result in a revocation of the Massage Facility License for failure to satisfy the City's license requirements.

6. License procedures:

(a) Any applicant for a license pursuant to this Chapter shall present to the City Clerk's office the application containing the aforementioned and described information. Once a fully completed application has been received by the City Clerk, it shall be referred to the Chief of Police or his/her designee, who shall have thirty (30) days in which to investigate the application and the background of the applicant(s). Based on such investigation, the Chief of Police, or his/her designee shall render a recommendation as to the approval or denial of the license to the City Clerk.

The Chief of Police shall recommend denial or approval of an application for license. In making this determination, the Chief of Police shall consider:

(1) The criminal or penal history of the applicant(s), including but not limited to actual criminal convictions for all or each of the applicants, massage therapists, employees, managers and independent contractors; civil judgments against all or each of the applicants, massage therapists, employees, managers and independent contractors; the circumstances of those convictions or judgments; and the demeanor of the applicant, massage therapists, employees, managers and independent contractors subsequent to his or her conviction or judgment.

(2) The license history of the applicant(s), including but not limited to whether such person(s) has previously operated in this City or State, or in another state under a license, and has had such license or a permit revoked or suspended.

(b) The facility may be inspected for compliance with the requirements of this Chapter and compliance with all City ordinances and State laws by one of more City representatives, including but not limited to representatives of the Police Department, Fire Department, Building Department and/or Planning Department. Within thirty (30) days of the date of submission of a fully completed application, any inspection reports and recommendations as set out herein shall be forwarded to the City Clerk.

7. Issuance of License for a Massage Facility:

The City Clerk shall issue a license for a Massage Facility if all requirements for a Massage Facility described in this Chapter are met, unless the City Clerk determines:

(a) The correct license fee has not been tendered to the City and/or, a check, or bank draft, given to the City has not been honored with payment upon presentation.

(b) The operation, as proposed by the applicant(s), if permitted, would not comply with all applicable laws, including, but not limited to, the City's building, zoning and health regulations.

(c) The applicant(s), if an individual(s), or any of the stockholders holding more than ten (10) percent of the stock of the corporation; or any of the officers, directors or resident agents, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the holder of any lien, of any nature, upon the business; and the manager or other person principally in charge of the operation of the business; or any employees or independent contractors has (have) been convicted of any of the following offenses within or without the State of Michigan:

(1) A felony offense involving the use of force or violence upon another person.

(2) A misdemeanor or felony sexual misconduct offense, including but not limited to prostitution.

(3) A felony offense involving narcotics, dangerous drugs or dangerous weapons.

Exception: If any of the above referenced convictions were at least ten (10) years prior to the date of the application, and there are no subsequent felony convictions or convictions for the offenses listed in 7 (c)(2), the City Clerk may issue a license to the applicant(s).

(d) The applicant(s) knowingly made any false or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith.

(e) The applicant(s) ever had a massage business facility or other similar license denied, revoked, or suspended by the City or a similar business license or permit denied by any other governmental entity within ten (10) years prior to the date of the application and the denial, revocation or suspension was based on criminal activity, fraud or a violation of the healthy, safety and welfare provisions of a municipal ordinance or State law.

(f) The applicant(s), if individual(s), or any of the officers, directors, and resident agents (if the applicant is a corporation); or any of the partners, including limited partners (if the applicant is a partnership); or any massage therapists or employees that are under the age of eighteen (18) years.

8. Approval or Denial of Application:

The City Clerk shall act to approve or deny an application for a license within a reasonable period of time and in no event this action occur later than sixty (60) days from the date that said application was accepted by the City Clerk's office.

Every license issued pursuant to this Chapter shall be valid for one year and must be renewed as required by this Chapter.

Applicant(s) denied a license, pursuant to these provisions, may appeal the denial to the City Council through a written document that states the reasons why the license should be granted. Such appeal proceedings shall be held in an open meeting before the City Council. The City Council may grant or deny a license after an appeal hearing.

9. Posting of License:

Every Massage Facility Licensed under this Chapter shall be displayed in a prominent place at the Massage Facility.

10. Records of Employees:

(a) The licensee shall maintain a register of all persons employed or engaged as massage therapists for the licensee and/or on the licensed premises. Such registry shall be maintained at the Massage Facility, and available upon request to representatives of the City of Troy during regular business hours.

(b) Each licensee is responsible for providing the information that is required under Section 5 of this ordinance for any new employees or massage therapists that will be employed or engaged by the Massage Facility licensee that were not included on the license application. The investigative fee for each such proposed new employee or massage therapist must also be paid, and the City will then conduct the required investigation. City Clerk approval is required before any new employee or massage therapist can work or do massage at the massage facility.

11. Suspension or Revocation of License; Notice and Hearing:

(a) When any of the provisions of this Chapter are violated by the licensee, an employee, manager, massage therapist, employee or independent contractor of the massage facility; and/or when any licensee, employee, manager, massage therapist, employee or independent contractor of the licensee is engaged in any conduct which violates any State law or City ordinance; or upon notification from the Oakland County Health Department that the Massage Facility is being managed, conducted, or maintained without regard to proper sanitation and hygiene; or for any good cause; the City Council of the City of Troy may suspend or revoke the Massage Facility License after notice and a due process hearing.

(b) For conditions posing a threat to the public health, safety and welfare of the community, patrons, employees or others, a health officer, code enforcement officer, fire marshal or a police officer, with the approval of the City Manager or his designee, is hereby granted the authority to immediately suspend any license granted hereunder, without notice or a hearing; provided, however, that written

notice of the suspension shall be given to the licensee within seventy-two (72) hours of the suspension, and shall contain the effective date and time of such suspension. Notice shall be hand delivered to the manager or person in charge of the facility and also sent by first class mail to the licensee's last known address. A copy of the notice shall also be posted on the front door of the facility.

(c) If the Massage Facility License is suspended pursuant to Section 11 (b), or if the City Manager or his/ her designee determines that the Massage Facility License should be suspended or revoked under the provisions of Section 11 (a), the City Clerk shall set a date and time for a due process hearing before City Council. The hearing shall be set for the next available regular Council meeting, taking into account the notice requirements of City Charter, City ordinance and State law. The City Clerk shall send a notice of the hearing to the licensee at the Massage Facility, as well as sent by first class mail to the licensee's last known address, if different than the Massage Facility. Additionally, a copy of the notice of the hearing shall also be posted on the front door of the Massage Facility.

(d) The notice of hearing shall indicate that the City of Troy has initiated suspension and/or revocation proceedings, and shall state the reason for the suspension or requested revocation. The notice shall state the location of the hearing and the date and time that the licensee may appear before City Council to give testimony and show cause why the Massage Facility License should not be suspended or revoked.

(e) At the due process hearing, City staff and/or other concerned individuals will have the opportunity to present evidence and testimony supporting the suspension ore requested revocation. The licensee shall be allowed to present evidence and testimony at the hearing as to why the license should not be suspended or revoked. After the hearing, the City Council may revoke the Massage Facility License, suspend the Massage Facility License, or deny the suspension or revocation of the license. If City Council suspends the Massage Facility License, then Council shall clearly specify the length of the suspension, as well as any conditions that must be satisfied or corrective action that must be taken prior to restoration of the Massage Facility License.

(f) If the licensee fails to satisfy Council's articulated conditions for restoration of a suspended Massage Facility License within the time allocated to the licensee, then Council can revoke the Massage Facility License. The licensee may appeal the City Council decision with the Oakland County Circuit Court. Any such appeal must be filed within 21 days of the final decision and shall be governed by the Michigan Court Rules applicable to an appeal from an administrative agency under MCLA 660.631.

12. <u>Renewal of Massage Facility License:</u>

An application to renew a license to operate a Massage Facility shall be filed at least fifteen (15) days prior to the date of license expiration. Such renewal shall be annual and shall be accompanied by the application fee.

(a) The applicant(s) shall present the following information to the City Clerk's office for the renewal application:

(1) A sworn affidavit by the applicant(s) stating that the information contained in the original application has not changed, or if it has changed, specifically identifying the changes that have occurred.

(2) The names, addresses, birth dates and driver's license numbers of each massage therapist and each employee or independent contractor who is or will be employed or located in the Massage Facility.

(3) The names, addresses, birth dates and driver's license numbers of each individual who will be a manager, acting manager or in charge of each Massage Facility.

(b) The application shall be referred to the Chief of Police who shall investigate the criminal history of the applicant(s) and any massage therapists, employees, managers and independent contractors listed as set out above.

13. Massage Facility Requirements:

No Massage Facility License shall be issued unless the appropriate inspectors from the Police Department, Fire Department or any other appropriate department of the City of Troy confirm that the Massage Facility complies with each of the following minimum requirements:

(a) All provisions of the City codes and State law have been complied with, including but not limited to building, mechanical, plumbing, electrical and fire codes.

(b) Adequate and appropriate bathing, dressing, locker, and toilet facilities are provided for patrons. If clothing and personal property is not kept with the patron, there shall be a separate locker for each patron to be served, which shall be capable of being locked.

(c) Rooms used for steam baths and showers shall be waterproof, and shall be constructed of approved waterproof materials and shall be installed in accordance with the City of Troy codes, including but not limited to the following:

(1) Floors, walls and ceilings of steam rooms and shower compartments shall be waterproofed with a smooth, readily cleanable, nonabsorbent material.

(2) Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sanitary sewer.

(3) A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.

(d) The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages. Such non-disposable instruments and materials shall be disinfected after use on each patron.

(e) Closed cabinets shall be provided and used for the storage of clean linen, towels

and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept separate from the clean storage areas. No common use of towels or linens is permitted.

(f) A minimum of one separate washbasin shall be provided in each Massage Facility for the use of employees of any such Facility. The basin shall provide soap or detergent and hot and cold water at all times, and shall be located within or as close as practicable to the area devoted to the performing of massage services. In addition, there shall be provided at each washbasin sanitary single-use towels placed in permanently installed dispensers.

14. Operating Requirements:

(a) Every portion of the Massage Facility, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.

(b) The price rates for all services at the Massage Facility shall be prominently posted in the reception area in a location available to all prospective customers.

(c) The Massage Facility shall not be made available as a sleeping quarters accommodation for any person. No beds, water mattresses, cots, or equipment designed for sleeping shall be permitted on the premises.

(d) All massage therapists and independent contractors massaging and/or attending patrons shall be clean and wear clean uniforms covering the torso. Such uniforms shall be non-transparent and of washable or disposable material and shall be kept in a clean condition. Such clothing shall cover the person's pubic area, perineum, buttocks, natal cleft and the entire chest up to a height of four (4) inches below the collarbone. All employees and independent contractors giving massages shall wear slacks and a blouse or shirt, or a one-piece pants suit or coverall. Skirts or dresses shall not be permitted.

(e) All massage facilities shall be supplied with and provide clean laundered sheets and towels in sufficient quantity. Sheets and towels shall be laundered after each use thereof and stored in a sanitary manner.

(f) Wet and dry heat rooms, steam or vapor rooms, or steam and vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation.

(g) Massage Facility Licensees shall not place, publish, distribute or cause to be placed, published, or distributed any advertisement, picture, or statement which is known to be false, deceptive, or misleading or through the exercise of reasonable care should be known to be false, deceptive or misleading, in order to induce any person to purchase or utilize any professional massage services.

15. Persons under Age Eighteen Prohibited on Premises:

No person shall permit any person under the age of eighteen (18) years to come or remain on the premises of any Massage Facility as a massage therapist, employee, or independent contractor. A patron under the age of eighteen (18) years shall be

accompanied by a parent or legal guardian, or have in his or her possession a signed parental or legal guardian consent form, consenting to his or her presence at the Massage Facility premises for the purpose of receiving a massage.

16. Hours:

Massage Facilities shall not be operated or kept open for any purposes between the hours of 10:00 p.m. and 6:00 a.m.

17. Inspection Required:

The Chief of Police, Fire Chief, police officers, fire department personnel, code enforcement officers, or other authorized inspectors from the City of Troy shall have the right from time to time to inspect each Massage Facility for the purposes of determining that the Massage Facility is in full compliance with the provisions of this Chapter. It shall be unlawful for any Massage Facility Licensee to refuse or fail to allow such inspection or to hinder such officer or inspector in any manner.

18. Unlawful Acts:

(a) It shall be unlawful for any person in a Massage Facility to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage a sexual or genital part of any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

(b) It shall be unlawful for any person in a Massage Facility to expose his or her sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person in a Massage Facility to expose the sexual or genital parts, or any portions thereof, of any other person.

(c) It shall be unlawful for any person, while in the presence of any other person in a Massage Facility, to fail to conceal the sexual or genital parts of his or her body with a fully opaque covering.

(d) It shall be unlawful for any person owning, operating or managing a Massage Facility, or any agent, employee, or any other person under his or her control or supervision to perform such acts or allow the performance of such acts that are prohibited in subsections 19 (a), (b) or (c).

19. Sale, Transfer or Change of Location:

The Massage Facility License shall not be sold or transferred to another. Any sale, transfer, or relocation of a Massage Facility requires compliance with the application process under the provisions of this Chapter, and the Massage Facility License is null and void upon the transfer, sale, or relocation. All licensees having knowledge of the sale, transfer or relocation of a Massage Facility are required to immediately report such sale, transfer or relocation to the City Clerk's office. Failure to do so within thirty (30) days of the sale, transfer or relocation shall result in an immediate suspension of all business.

20. Name and Place:

No person granted a license pursuant to this Chapter shall operate a Massage Facility under a name that is not specified in their Massage Facility License, nor shall they conduct business under any designation or location that is not specified in their Massage Facility License.

21. Violation and Penalty:

Any individual who violates Section 4 of this Chapter shall be responsible for a municipal civil infraction, as set out in Chapter 100 of the Code of Ordinances.

Any person, whether acting as an individual, owner, manager, employee of the owner, or whether acting as an agent or independent contractor for the owner, employee or operator, or acting as a participant or worker in any way directly or indirectly who operates a Massage Facility without first obtaining a license from the City of Troy and paying the established fee, or who violates any provisions of this Chapter except the provisions in Section 4, is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for a period not to exceed ninety (90) days and/or a fine not to exceed five hundred dollars ($500.00), plus costs, at the discretion of the Court. Each day that a violation is permitted to exist constitutes a separate offense.