



MAYOR & COUNCIL COMMUNICATION

DATE: November 4, 2015
CONSENT
ITEM # 9

AGENDA ITEM: Approval of Massage Therapy License Renewals

SUBMITTED BY: Julie Johnson, City Clerk

THROUGH: Clark Schroeder, Interim Administrator

REVIEWED BY: Dave Snyder, City Attorney

POLICY RECOMMENDER: City Staff

SUMMARY AND ACTION REQUESTED: The City has received four Massage Therapy License Renewal Forms. Staff is requesting approval of three applications: Renew & Recover Massage Therapy, Body & Soul, Inc. and Jennifer Mertes. The fourth application, from Nirvana Massage and Spa, has been reviewed by the City Attorney and the City has granted itself an additional 60 days to consider that application. It is anticipated that the Nirvana application will come before the Council at a later date for consideration.

LEGISLATIVE HISTORY: The City of Lake Elmo instituted a city license structure in December of 2012 in order to better regulate the practice of therapeutic massage in Lake Elmo. Licenses are subject to renewal each year.

RECOMMENDATION: If removed from consent, staff recommends the following motion:

“Move to approve Massage Therapy License renewals for Renew & Recover Massage Therapy, Body & Soul and Jennifer Mertes as presented.”



Print Applicant Name: CRAIG ZORN

MASSAGE LICENSE RENEWAL FORM

This form may be used in place of a full Massage Therapy License Application, for the renewal of a previously issued massage license, ONLY if you are able to answer "No" to all of the following questions. These questions apply to the previous licensing period. If you answer "Yes" to any of the following questions, a full massage license application must be completed.

(Circle the appropriate response)

- 1. Were there any changes in the name, location, or ownership of the licensed therapist or premises? Yes or No
- 2. Was any employee, owner or officer of the business or corporation, or the business as an entity, charged with a violation of state or local laws regulating the practice of massage, or of any law prohibiting criminal sexual conduct, prostitution, pandering, indecent conduct, or keeping of a disorderly house? Yes or No
- 3. Did any employee, owner or officer of the business or corporation, or the business as an entity, have a similar license denied or revoked by another agency? Yes or No
- 4. Was any employee, owner or officer of the business or corporation, or the business as an entity, charged with any violation of any other law or ordinance related to the operation of the business? Yes or No

By signing below, you are indicating that the answer to questions 1 through 4 is "No". Any inaccurate information contained on this form shall constitute grounds for the non-renewal or revocation of the massage license and potential criminal prosecution.

Craig Zorn
Applicant Signature

10/6/15
Date

Subscribed and sworn before me this 6th day of October, 2015

[Signature]
Notary Public





Print Applicant Name: Renew & Recover Massage Therapy

MASSAGE LICENSE RENEWAL FORM

This form may be used in place of a full Massage Therapy License Application, for the renewal of a previously issued massage license, ONLY if you are able to answer "No" to all of the following questions. These questions apply to the previous licensing period. If you answer "Yes" to any of the following questions, a full massage license application must be completed.

(Circle the appropriate response)

- 1. Were there any changes in the name, location, or ownership of the licensed therapist or premises? Yes or No
- 2. Was any employee, owner or officer of the business or corporation, or the business as an entity, charged with a violation of state or local laws regulating the practice of massage, or of any law prohibiting criminal sexual conduct, prostitution, pandering, indecent conduct, or keeping of a disorderly house? Yes or No
- 3. Did any employee, owner or officer of the business or corporation, or the business as an entity, have a similar license denied or revoked by another agency? Yes or No
- 4. Was any employee, owner or officer of the business or corporation, or the business as an entity, charged with any violation of any other law or ordinance related to the operation of the business? Yes or No

By signing below, you are indicating that the answer to questions 1 through 4 is "No". Any inaccurate information contained on this form shall constitute grounds for the non-renewal or revocation of the massage license and potential criminal prosecution.

[Signature]
Applicant Signature

10-16-15
Date

Subscribed and sworn before me this 16 day of October, 2015

[Signature]
Notary Public





Print Applicant Name: Roxane Fogard

MASSAGE LICENSE RENEWAL FORM

This form may be used in place of a full Massage Therapy License Application, for the renewal of a previously issued massage license, ONLY if you are able to answer "No" to all of the following questions. These questions apply to the previous licensing period. If you answer "Yes" to any of the following questions, a full massage license application must be completed.

(Circle the appropriate response)

- 1. Were there any changes in the name, location, or ownership of the licensed therapist or premises? Yes or **No**
- 2. Was any employee, owner or officer of the business or corporation, or the business as an entity, charged with a violation of state or local laws regulating the practice of massage, or of any law prohibiting criminal sexual conduct, prostitution, pandering, indecent conduct, or keeping of a disorderly house? Yes or **No**
- 3. Did any employee, owner or officer of the business or corporation, or the business as an entity, have a similar license denied or revoked by another agency? Yes or **No**
- 4. Was any employee, owner or officer of the business or corporation, or the business as an entity, charged with any violation of any other law or ordinance related to the operation of the business? Yes or **No**

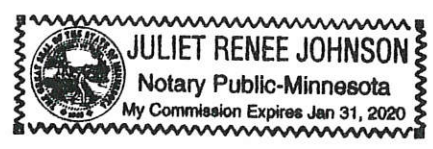
By signing below, you are indicating that the answer to questions 1 through 4 is "No". Any inaccurate information contained on this form shall constitute grounds for the non-renewal or revocation of the massage license and potential criminal prosecution.

Roxane Fogard
Applicant Signature

10-28-15
Date

Subscribed and sworn before me this 28th day of October, 2015

Juliet Renee Johnson
Notary Public





Print Applicant Name: Jennifer L. Mertes

MASSAGE LICENSE RENEWAL FORM

This form may be used in place of a full Massage Therapy License Application, for the renewal of a previously issued massage license, ONLY if you are able to answer "No" to all of the following questions. These questions apply to the previous licensing period. If you answer "Yes" to any of the following questions, a full massage license application must be completed.

(Circle the appropriate response)

- 1. Were there any changes in the name, location, or ownership of the licensed therapist or premises? Yes or **No**
- 2. Was any employee, owner or officer of the business or corporation, or the business as an entity, charged with a violation of state or local laws regulating the practice of massage, or of any law prohibiting criminal sexual conduct, prostitution, pandering, indecent conduct, or keeping of a disorderly house? Yes or **No**
- 3. Did any employee, owner or officer of the business or corporation, or the business as an entity, have a similar license denied or revoked by another agency? Yes or **No**
- 4. Was any employee, owner or officer of the business or corporation, or the business as an entity, charged with any violation of any other law or ordinance related to the operation of the business? Yes or **No**

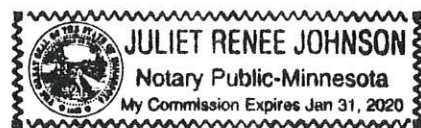
By signing below, you are indicating that the answer to questions 1 through 4 is "No". Any inaccurate information contained on this form shall constitute grounds for the non-renewal or revocation of the massage license and potential criminal prosecution.

Jennifer L. Mertes
Applicant Signature

10-28-15
Date

Subscribed and sworn before me this 28th day of October, 2015

[Signature]
Notary Public



JOHNSON / TURNER

— L E G A L —

October 29, 2015

Craig Zorn
1315 Greeley Street S., #1
Stillwater, MN 55082

Nirvana Massage and Spa
Attn: Craig Zorn
11240 Stillwater Blvd. N.
Lake Elmo, MN 55042

Re: Nirvana Massage and Spa Renewal Application

Mr. Zorn:

This letter is to address portions in your Therapeutic Massage License renewal application of October 6, 2015. Pursuant to City Ordinance § 114.15(A), the city issues renewals in a form designated by the issuing authority. The full language of the applicable section is as follows:

Applications for the renewal of an existing license shall be made at least 30 days prior to the date of the expiration of the license and shall be made in such form as the issuing authority requires. If, in the judgment of the issuing authority, good and sufficient cause is shown by an application for the applicant's failure to submit a renewal application before the expiration of the existing license, the issuing authority may, if the other provisions of this chapter are complied with, grant the renewal application.

The form designated by the City is the Massage License Renewal Form, which you filled out and returned to the City on October 6, 2015.

First, your renewal application was made less than 30 days prior to the date of the expiration of your license, which is October 31, 2015. No explanation was given as to why it came late. However, second and more importantly, you answered "yes" to question 2 on the renewal form, which asks "[w]as any employee, owner or officer of the business ... charged with a violation of state or local laws regulating the practice of massage, or of any law prohibiting criminal sexual conduct, prostitution, pandering, indecent conduct, or keeping of a disorderly house." The form, as you are aware, indicates as follows:

Craig Zorn
Nirvana Massage and Spa
October 30, 2015
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This form may be used in place of a full Massage Therapy License Application, for the renewal of a previously issued massage license, ONLY if you are able to answer **"No"** to all of the following questions. These questions apply to the previous licensing period. If you answer **"Yes"** to any of the following questions, a full massage license application must be completed.

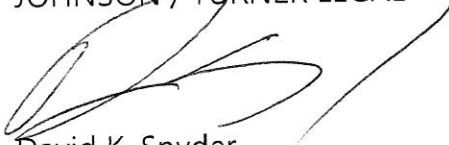
As a result of the "yes" answer, and as designated on the form, you are required to fill out a full massage license application, and cannot use the Massage License Renewal Form.

In the interim, and to the extent you wish to operate Nirvana Massage and Spa at some point in the future, please first complete a full license application pursuant to City Ordinances §§ 114.11 and 114.07, which will be submitted to the City Council after review and investigation by the issuing authority, pursuant to City Ordinance § 114.13.

Finally, it is my understanding that you have attempted to discuss with the City Clerk matters relating to your lawyer. Please direct further communications to our office.

Sincerely,

JOHNSON / TURNER LEGAL



David K. Snyder
DKS/mah

cc. City Clerk
Randy Tigue (via U.S. mail and e-mail: tiguelaw@msn.com)



October 29, 2015

Craig Zorn
1315 Greeley Street S., #1
Stillwater, MN 55082

Nirvana Massage and Spa
Attn: Craig Zorn
11240 Stillwater Blvd. N.
Lake Elmo, MN 55042

Re: Nirvana Massage and Spa Renewal Application

Mr. Zorn,

This letter is to inform you of the City of Lake Elmo's election to extend the timeline under which the final decision on your Massage License renewal application of October 6, 2015 must be made. Pursuant to Minn. Stat. § 15.99 subd. 3(f), the City is granting itself an additional 60 days in order to make a decision.

The reason for such extension is due to the pending criminal charges against one of your employees, which must be fully investigated and reported on in order for the City to make a fully informed decision as to whether Nirvana Massage and Spa has violated City Ordinances and/or State and Federal law and evaluation of a full massage license application.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie Johnson".

Julie Johnson
City Clerk
City of Lake Elmo

cc. City Attorney
Randall Tigue (via U.S. mail and e-mail: tiguelaw@msn.com)