

**MESSAGE BUSINESS SELF-EMPLOYED EXEMPTION
RULES AND REGULATIONS
FOR THE CITY OF COLORADO SPRINGS**

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MESSAGE BUSINESS SELF-EMPLOYED EXEMPTION RULES AND REGULATIONS FOR THE CITY OF COLORADO SPRINGS

PART 1 – General Rules

Section 1 – Applicability

Rule 1.1.00 Applicability of Rules

In addition to any other rules or laws which may be applicable, these rules shall govern exemptions from Massage Business licensing of a business premises within the city limits of the City of Colorado Springs that is used by self-employed massage therapists which have been filed with the City Clerk as the Local Licensing Authority ("LLA") for the City of Colorado Springs.

Section 2 – Authority and Jurisdiction

Rule 1.2.00 General

The Local Licensing Authority (the "LLA") of the City of Colorado Springs for Massage Business licenses as authorized by the Code of the City of Colorado Springs and by these rules and regulations, shall possess all powers given to local licensing authorities by the provisions of state statutes, City Code and state and local rules and regulations.

Rule 1.2.01 Jurisdiction of Authority

The LLA or its designee shall have jurisdiction over all Massage Business licensing matters related to licensed premises within the City of Colorado Springs and as outlined in Article 1 of Chapter 2 of the City Code (General Business Licensing Code).

Rule 1.2.02 Authority

The City Code authority for these rules includes, but is not limited to, Section 2.3.105(J) of the City Code effective July 1, 2022. These rules are intended to clarify the eligibility and process for a self-employed massage therapist that operates in a business location to be exempt from the Massage Business licensing requirements as outlined in Article 3 of Chapter 2 of the City Code.

Rule 1.2.03 Severability

Each rule is independent of the others. If any portion of the rules is found to be invalid, the remaining portions of the rules shall remain in full force and effect.

PART 2 – Exemption Review

Section 1 – Exemption Request and Forms

Rule 2.1.00 Definition

Self-Employed: For the limited purposes of these Rules, a “self-employed” Licensed Massage Therapist (LMT) means an individual massage therapist as defined in C.R.S. §12-235-104(5) that is licensed by the Colorado Department of Regulatory Agencies (DORA) and who practices independently as a solo practitioner in a business location. A self-employed LMT operating as a solo practitioner in a business location may be organized as an independent company/firm which may include support personnel but does not include any other massage therapists.

Rule 2.1.01 Exemption Request Forms and Fees

Requests for a Massage Business Self-Employed Exemption shall be filed with the LLA on approved forms or via the City Clerk’s online business licensing portal, together with all fees and documents required by City Code and these rules.

The following shall be filed:

A. The Massage Business Self-Employed Exemption review form, as provided by the City, which shall be filled out and completed in all material details, with applicable documentation as required. Incomplete forms shall be rejected. Applications requiring additional documentation will have a ten (10) calendar day period from date of notice for remedy, or the request may be deemed withdrawn.

B. The Exemption Review Fee, payable to the City of Colorado Springs, as established by separate City Council Resolution.

1. Review fees will not be refunded upon withdrawal of the request.
2. If the review results in the determination that a Massage Business license application is required (denial of exemption), the review fee paid shall be credited to the business license fee upon submittal of the complete required Massage Business license application. The credit is only applicable if the subsequent business license application is submitted within 30 days of notification of such determination, unless stayed by appeal.

C. Subsequent requests for change or alternate business location(s) shall be considered a new request requiring all associated fees and documentation.

Rule 2.1.02 Request Requirements for Massage Business Self-Employed Exemption

A. Every request for a Massage Business self-employed exemption shall be legible and shall include but not be limited to the following:

1. The full name and any other names under which the self-employed LMT is or has been known;
2. The residence or mailing address, email address, and telephone number of the self-employed LMT;
3. The name under which the self-employed LMT intends to do business;
4. The full address of the business location for which the self-employed LMT intends to do business;
5. A statement/description of massage therapy services provided and reasons/qualifications for exemption from Massage Business License requirements for the identified business location/premises;
6. A copy of a current valid government issued ID for the self-employed LMT;
7. A copy of a current valid Massage Therapist License issued by the Colorado Department of Regulatory Agencies (DORA) for the self-employed LMT;
8. A copy of a valid possessory document (deed, lease, contract or other document) governing the terms and conditions of occupancy of the premises reflecting the ownership and right to possess the property for which the self-employed LMT intends to do business;
9. If applicable, a copy of a current valid Certificate of Good Standing from the Colorado Secretary of State for the business name under which the self-employed LMT intends to do business;
10. An acknowledgment and affirmation of the self-employed LMT's understanding of the review requirements and providing a complete and accurate review request information;
11. An acknowledgment and affirmation of the self-employed LMT's understanding that any written exemption is valid only for as long as the self-employed massage business maintains the circumstances and business operations in the location identified in the exemption request;

B. Burden of Proof: The requesting self-employed LMT shall have the burden to establish that they have met all the requirements of the City Code and Rules, and any applicable state laws, governing the self-employed massage business by a preponderance of the evidence.

Section 2 – Exemption Qualifications, Review, and Findings

Rule 2.2.00 Exemption Qualifications

A. Considerations for exemption may include, but are not limited to, the following:

1. The self-employed LMT does not operate under a business name.
2. If operating under a business name, the solo practitioner uses/lists the LMT's name or license number in each advertisement and each time the business name appears in writing.
3. If operating under a business name, the company organization is a sole proprietor, single owner LLC, or multi-owner LLC or partnership that has only one actual LMT providing services.
4. The self-employed LMT operates in a unique business location with sole and exclusive possession of the premises. This includes the business location being a separate suite space in a building/property that may or may not have other independent LMT(s) in their own space/unit.
5. The self-employed LMT operates in a business location co-located or shared by other independent solo practitioners:
 - a. Includes the business location being utilized as a shared space in a building/property with other independent LMT(s) who may use the premises/shared space on a rotating or scheduled basis.
 - b. Has no business relationship with other LMTs.
 - c. Has no contractor/employee (1099) relationship with other massage businesses or LMTs in the business location.
 - d. Has no booth rental arrangements with massage business in the business location.
 - e. Has no employees.

B. If the self-employed LMT has a booth/contract arrangement, no exemption is required – the business that rents the booth space to the LMT needs a Massage Business License.

C. A change of circumstances or business location requires new review for applicable exemption.

- D. If circumstances change within one year of exemption decision where the business needs to be licensed, the exemption review fee may be credited to the license fee.
- E. A separate exemption review is required for each business location.

Rule 2.2.01 Exemption Review

The LLA shall gather evidence as required by City Code and Rules. The review/investigation shall consider the following matters:

- A. Whether it satisfactorily appears the applicant holds an active Massage Therapist license issued by the Colorado Department of Regulatory Agencies (DORA);
- B. Whether it satisfactorily appears that the applicant is or will be entitled to possession of the premises for which application is made by ownership or lease, rental agreement, or other arrangement for possession of the premises;
- C. Whether the applicant substantially qualifies for the requested Self-Employment Exemption;
- D. Whether the applicant has submitted false applications, made willful misrepresentations and/or committed fraudulent acts.

Rule 2.2.02 Findings and Decision

- A. If the LLA finds the criteria in this part have been met, the exemption shall be approved and issued in writing (certificate of exemption). The written exemption (certificate) shall be valid only for as long as the self-employed LMT operating as a solo practitioner in a business location maintains the circumstances and business operations in the location identified in the exemption request.
- B. If the LLA finds the criteria in this part has not been met, the request shall be denied with written notification pursuant to sections 3 and 4 of this part.
- C. If the exemption review results in a determination that a Massage Business license is required (denial of exemption), the review fee paid shall be credited to the business license fee upon submittal of the complete required Massage Business license application. The credit is only applicable if the subsequent application is submitted within 30 days of notification of such determination, unless stayed by appeal.

Rule 2.2.03 Notice of Pending Denial

If the LLA intends to deny the Massage Business Self-Employed Exemption request, the applicant shall be provided at least ten (10) calendar days written notice prior to the

issuance of the actual denial letter. The applicant shall have the burden to supplement the LLA's file with materials relevant to the stated reason for pending denial. Failure of the applicant to supplement the file shall result in a waiver of additional evidence in the file.

Rule 2.2.04 Denial and Appeal

Any denial of an exemption request shall conform to the process and procedures outlined in Article 1 of Chapter 2 of the City Code (General Business Licensing Code) for license denials and appeals of a denial. In the event of an appeal, the time period for credit allowance of review fees paid shall be stayed until final agency action is taken on the appeal.

PART 3 – Adoption and Effective Date

The Massage Business Self-Employed Exemption Rules and Regulations outlined above are hereby adopted by the City Clerk of the City of Colorado Springs effective July 21, 2022, shall apply to all matters now pending before the City Clerk or which are subsequently filed with the City Clerk's Office, and shall remain in effect until amended or repealed. These Rules and Regulations shall be retained on file with the City Clerk's Office and made available for public inspection on the City's website. These Rules and Regulations do not limit, restrict, or replace the City Clerk's ability to exercise any authority granted by City Charter or City Code.