



**REGULAR
COUNCIL MEETING**

December 13, 2016

To: Dave Callister, City Manager

Prepared by: Sandy Engdahl, City Clerk

Reviewed by: Luke Fischer, Administrative Services Director

Item: **Public Hearing on Denial of Massage Therapy Center and Massage Therapist Licenses for Asian Health Massage, 4205 Lancaster Lane North, Suite 108, and Chunyan Yang**

1. ACTION REQUESTED:

Conduct public hearing and direct the City Attorney to prepare findings of fact for the denial of 2017 renewal applications for the January 10, 2017 Council Meeting or direct the City Manager to issue Massage Therapy Licenses for 2017.

2. BACKGROUND:

Summarized below are the facts/issues surrounding Ms. Chunyan Yang's renewal applications:

Application and Background Investigation:

- Chunyan Yang submitted applications on November 7, 2016 to renew her Massage Therapy Center and Massage Therapist licenses.
- Ms. Yang falsified her applications by not indicating that she was convicted of a crime related to these types of licenses. On February 10, 2015, the Sioux Falls Police Department issued Ms. Yang a citation for operating massage without a license. On February 24, 2015, she pled guilty to practicing of massage or representation as in practice without a license. The State of South Dakota issued a guilty verdict. On June 15, 2016, the South Dakota Board of Massage Therapy denied Ms. Yang's application for a license.
- Ms. Yang's business had multiple reviews in 2016 under the category of "Asian Health Massage in Plymouth" on <https://www.rubmaps.com>. The reviews said they had sexual experiences with staff or massage therapist at this location (see attachments).
- On December 1, 2016, she was notified that the City Manager denied her application due to the following:
 - Falsified her applications regarding past criminal history to these types of licenses.
 - The business had reviews on unethical website implicating illegal activity.

Section 1135.13 of the City Code lists conditions governing issuance of certificates. In this section, the following apply to Ms. Yang's application:

1. Certificates may be issued only to persons of good repute.
2. Certificates may be issued only to persons free of convictions of prostitution or offenses which involve moral turpitude or which relate directly to the person's

ability, capacity, or fitness to perform the duties and discharge the responsibility of the occupation.

3. Certificates may be issued only to persons who have answered fully all of the information requested in the application and have paid the full investigation and certification fees.

Section 1135.17 of the City Code outlines grounds for revocation, suspension of certificates, or nonrenewal of certificates by the City Manager. In this section, the following apply to Ms. Yang's application:

1. Fraud, deception or misrepresentation in connection with the securing of certification.
2. Conduct inimical to the interests of the public health, safety, welfare or morals.
3. Engaging in conduct involving or demonstrating moral turpitude, including, but not limited to, prostitution.
4. Failure to comply with the requirements of Section 1135.

3. BUDGET IMPACT:

There would be no budget impact from this action.

4. ATTACHMENTS:

Denial Correspondence
Appeal Correspondence
Applications/Background Investigation Materials
Section 1135 of the City Code

December 1, 2016

Ms. Chunyan Yang
4055 Lancaster Ln. N. Apt. 5
Plymouth, MN 55441

RE: APPLICATION FOR MASSAGE THERAPY CERTIFICATE

Dear Ms. Yang,

This letter will serve as notification that I am denying your application for a Massage Therapy Certificate as recommended by the Plymouth Police Department based upon the criminal background investigation. You falsified your past criminal history relating to this type of license. It was also revealed that your business had reviews on an unethical website.


City Ordinance Section 1135.11 allows you the opportunity to appeal this denial to the City Council. City Ordinance Section 1135.17, Subd. 2., states the following regarding the appeal:

Subd. 2. Appeal. The Applicant/Certificate holder may appeal a denial, suspension, revocation or non-renewal to the City Clerk within 30 days of the date of notice. If no appeal is received within this time period, the denial, suspension, revocation, or non-renewal shall stand. The Council shall consider the appeal at the next regularly or specially scheduled Council meeting 10 days after service of the notice of appeal upon the City Clerk by the Applicant/Certificate holder. Hearing on the appeal shall be open to the public and the Applicant/Certificate holder shall have the right to appear and be represented by legal counsel and to offer evidence in behalf of certification. At the conclusion of the hearing, or as soon thereafter as practicable, the Council may order:

- A. That the denial, revocation, suspension or non-renewal by the City Manager be affirmed.
- B. That the denial, revocation, suspension or non-renewal by the City Manager be lifted and that the Certificate be issued or returned to the Certificate holder.
- C. The Council may base its order regarding the Certificate upon any additional terms, conditions and stipulations which it may, in its discretion, impose.

Please notify Sandy Engdahl, City Clerk, at (763) 509-5080 or sengdahl@plymouthmn.gov if you desire to appeal this denial to the City Council.

Sincerely,



Dave Callister
City Manager

cc: Public Safety Director Goldstein
Captain Swiatkiewicz
Licensing Technician Larrison
City Clerk Engdahl

