

ARTICLE VIII. MASSAGE¹

DIVISION 1. GENERALLY

Sec. 22-345. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Massage apparatus means any manual, mechanical, hydraulic, hydrokinetic, electric or electronic device or instrument, or any device or instrument operated by manual, mechanical, hydraulic, hydrokinetic or electric power, which is utilized by a massage technician, as herein defined, for the purpose of administering massage therapy, as herein defined.

Massage establishment means any business established for profit which employs one or more massage technicians, as herein defined, or owns and operates or maintains for profit one or more massage apparatus, as herein defined to include, and which, for a good or valuable consideration, offers to the public facilities and personnel for the administration of massage therapy, as herein defined.

Massage technician means a person who administers massage or massage therapy for compensation.

Massage therapy means the application of a system of structured touch, pressure, movement, and holding to the soft tissue of the body in which the primary intent is to enhance or restore health and well-being. The term includes complementary methods, including without limitation the external application of water, superficial heat, superficial cold, lubricants, salt scrubs, or other topical preparations and the use of commercially available electromechanical devices which do not require the use of transcutaneous electrodes and which mimic or enhance the actions possible by the hands; the term also includes determining whether massage therapy is appropriate or contraindicated, or whether referral to another health care provider is appropriate. Massage therapy shall not include the use of ultrasound, fluidotherapy, laser, and other methods of deep thermal modalities.

Sexual contact means any touching of the genitals, buttocks, anus, or female breast for sexual arousal or gratification.

Specified sexual activities means masturbation, prostitution, or solicitation thereof.

State-licensed massage therapist means a person licensed by the Georgia Board of Massage Therapy in accordance with O.C.G.A. § 43-24A-1 et seq..

(Ord. No. 467, § 1(7-12-1), 11-18-2004)

Sec. 22-346. Administering of massages.

(a) All massage services shall be performed only by state-licensed massage therapists in good standing, unless expressly exempted under state law.

¹State law reference(s)—Georgia Massage Therapy Practice Act, O.C.G.A. § 43-24A-1 et seq.; local regulation of massage, O.C.G.A. § 43-24A-22.

(b) In administering massages under this article, the conditions of the massage room shall meet the standards set forth in section 22-368.

(Ord. No. 467, § 1(7-12-6), 11-18-2004)

Secs. 22-347—22-365. Reserved.

DIVISION 2. MASSAGE ESTABLISHMENT LICENSE

Sec. 22-366. License required; fee.

- (a) It shall be unlawful for any person, partnership, firm, corporation or other entity to operate a massage establishment or permit massage services to be provided without first having obtained the license required by this division.
- (b) ~~The license fee for a massage establishment shall be \$100.00 per year. The license fee for a massage establishment shall be as set forth in the Town's adopted fee schedule, as fee schedule, as adopted and amended from time to time by the town council.~~
- (c) In addition to the license required under this article, the licensee shall also obtain an occupation tax certificate as required under article 2, division 4 of this chapter.

~~(d) Licenses shall be prominently displayed on the premises at all times.~~

~~(e) Licenses issued under this article are non-transferable and location specific.~~

(Ord. No. 467, § 1(7-12-2), 11-18-2004)

Sec. 22-367. Written application—Required information.

- (a) Any person desiring to obtain a license to operate a massage establishment shall make application to the town clerk. Such application shall be in writing and shall set forth the following information:
- (1) Proof that all massage therapists employed or contracted are currently licensed by the State of Georgia.
 - (2) The full legal name of the applicant, including all aliases, nicknames, pseudonyms or trade names currently or heretofore used by the applicant;
 - (3) The current and all previous business and residence addresses of the applicant within the two years immediately preceding the date of application;
 - (4) Sworn affidavits of at least three bona fide residents of the county that the applicant is a person of good moral character;
 - (5) Written proof that the applicant is over the age of 18 years;
 - ~~(5) The applicant's height, weight and color of eyes and hair;~~
 - (6) Two current photographs of the applicant at least two inches by two inches in size;
 - (7) The business, occupation, or employment of the applicant for three years immediately preceding the date of application;

(8) Any massage or similar business license history of the applicant, including whether such person, in any previous operation in any jurisdiction, has had such a license revoked, denied, or suspended, the reason therefor, and any business activity or occupation subsequent to the action of suspension, revocation, or denial; ~~and~~

(9) All convictions, including pleas of guilty and/or nolo contendere, of violations of any law and the grounds therefor; and

(10) The name and contact information of the on-site manager responsible for compliance.

(b) Applicants shall provide a floor plan of the establishment identifying all massage rooms, restrooms, and common areas..

~~(bc)~~ The applicant shall be fingerprinted by the town and such fingerprint card and record shall be attached as an exhibit to the application.

~~(ed)~~ If the applicant is a partnership, such partnership shall submit the foregoing information and exhibits with regard to each employee, agent, general partner, or limited partner. If the applicant is a corporation, such corporation shall submit the foregoing information and exhibits with regard to each officer and employee and shall also submit a complete list of the stockholders of said corporation, including names, current addresses and current occupations.

(Ord. No. 467, § 1(7-12-3), 11-18-2004)

Sec. 22-368. ~~Same~~—Massage establishment standards.

(a) A corporate applicant must be chartered under the laws of the state or authorized by the secretary of state to do business in the state. The applicant shall be the owner or legal agent of the establishment. Applications shall be submitted to the town clerk on forms provided by the town. A massage technician who is a sole proprietor shall not be required to obtain a massage establishment license.

(b) No license shall be issued unless the application required herein, and all the attached documentation and exhibits so required, shall have been filed by the applicant and in no case shall the license be issued where it appears that the application has been materially falsified or where the applicant has deliberately sought to falsify any information contained therein.

(c) No license to conduct a massage establishment shall be issued unless an inspection discloses that the establishment complies with each of the following minimum requirements:

(1) A readable sign shall be posted at the main entrance identifying the establishment as a massage establishment, provided also that all such signs shall otherwise comply with the general sign requirements of this Code;

(2) Minimum lighting shall be provided in accordance with the International Building Code, and, additionally, at least one artificial light of not less than 40 watts shall be provided in each enclosed room or booth;

(3) Minimum ventilation shall be provided in accordance with the International Building Code;

(4) Adequate equipment for disinfecting and sterilizing any instruments used for massage shall be provided;

(5) Hot and cold running water shall be provided;

(6) Closed cabinets shall be utilized for the storage of clean linen;

(7) Adequate dressing and toilet facilities shall be provided for customers;

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- (8) All walls, ceilings, floors, steam or vapor rooms and all other physical facilities for the establishment shall be kept in good repair and maintained in a clean and sanitary condition;
 - (9) Clean and sanitary towels and linen shall be provided for customers receiving massage services; no common use of towels or lines shall be permitted; and
 - (10) The establishment, prior to the issuance of any license hereunder, must be in complete compliance with the town fire code, the town electrical code, the town plumbing code, and with all other requirements of federal, state, county and municipal law designed to protect the health, welfare and safety of the persons who come into contact with said establishment.
- (d) No licensee hereunder shall permit any cubicle, room, booth, or any area within a massage establishment where massages are given to be fitted with a door capable of being locked. Exterior doors may have locks, but such exterior doors shall not be locked while the massage establishment is open for business or while any massage is being performed therein. Any massage establishment operating within a hotel or motel shall provide an area for massages to be administered, and in no event shall a massage be performed within a hotel or motel room.
 - (e) The storing, serving, sale or consumption of alcoholic beverages within massage establishments is expressly prohibited.
 - (f) No licensee hereunder shall permit any massage to be given to a patron whose genitals are exposed during massage treatment; and no patron of a massage establishment shall knowingly expose his genitals during a massage.
 - (g) Hours of operation shall be limited to 7:00 a.m. to 10:00 p.m..
 - (h) A current schedule of services and prices shall be prominently posted in the public reception or lobby area of the massage establishment in a location clearly visible to patrons prior to the provision of services. The price list shall be maintained in a legible condition at all times and shall accurately reflect the services offered.
 - (i) The premises of a massage establishment shall be arranged and maintained for the conduct of a commercial business and shall not be configured or used as a residence or sleeping quarters. The use of beds, mattresses, or other furniture or fixtures designed for sleeping is prohibited. All massage services shall be performed on massage tables, chairs, or other equipment designed for professional massage therapy. Full kitchen facilities intended for residential living are prohibited; however, employee breakroom amenities such as a refrigerator, microwave, sink, or similar limited food preparation equipment shall be permitted.
 - (j) No massage establishment shall permit or engage in sexual contact or specified sexual activities on the premises.
 - (k) Each massage therapist shall display a valid state license in the treatment room or wear a visible identification badge issued by the establishment.
 - (l) The town, fire marshal, or law enforcement officers may inspect the premises during normal business hours to ensure compliance.

(Ord. No. 467, § 1(7-12-5), 11-18-2004)

Sec. 22-369. Refusal to grant or restore licenses; discipline of licensees; suspension, revocation, or restriction of licenses.

- (a) The town clerk shall refuse to grant a license to an applicant or suspend or revoke a license under this article upon a finding that the licensee or applicant has:

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- (1) Displayed an inability or has become unable to work as an operator of a massage establishment, as the case may be, with reasonable skill and safety to clientele by reason of illness, use of alcohol, drugs, narcotics, chemicals, or any other type of substance, or as a result of any mental or physical condition. In enforcing this subsection, the town clerk may, upon reasonable grounds, require the licensee or applicant to submit to a mental or physical examination by an appropriate licensed practitioner of the healing arts. The expense of such examination shall be borne by such licensee or applicant. The results of such examination shall be admissible in any hearing before the town or a court of competent jurisdiction in the event of an appeal. If a licensee or applicant fails to submit to such an examination when properly directed to do so by the town, unless such failure was due to circumstances beyond the licensee's or applicant's control, the town may enter a final order upon proper notice, hearing, and proof of such refusal;
 - (2) Been convicted in the last five years of the following offenses: sodomy, aggravated sodomy, or solicitation of sodomy; masturbation for hire; public indecency; prostitution; solicitation of prostitution; pimping; pandering or pandering by compulsion; distribution of materials that are obscene or depicting nudity or sexual conduct as defined under state law; any offense involving the use or threat of force or violence upon the person of another; any offense involving narcotics, dangerous drugs or dangerous weapons; or any felony involving moral turpitude. For purposes of this section, a conviction shall include a finding or verdict of guilty, plea of guilty, or a plea of nolo contendere in a criminal proceeding;
 - (3) Knowingly made a misleading, deceptive, untrue or fraudulent representation to a client, customer, or other person or entity in connection with the provisions of massage services or any document connected therewith; or committed an act of fraud or deceit or made any false statement in obtaining or attempting to obtain a license provided for in this article;
 - (4) Performed massage services contrary to this article; or knowingly aided, assisted, procured, or advised any person to perform massage services contrary to this article; or knowingly performed any act which in any way aids, assists, procures, advises, or encourages any unlicensed person to perform massage services;
 - (5) Engaged in any unprofessional, unethical, deceptive, or deleterious practice harmful to the public, which conduct or practice need not have resulted in actual injury to any person. For purposes of this section, unprofessional conduct shall also include any departure from or failure to conform to the acceptable minimum standards applicable to massage technicians or operators of massage establishments; or
 - (6) Failed to report to the town any act or omission of a licensee or applicant or any other person who violates the provisions of this article.
- (b) In the event the town clerk denies an application for a license or finds that a license should be revoked or suspended pursuant to subsection (a) of this section, notice of such denial, suspension, or revocation shall be transmitted to the applicant or licensee, in writing, with the reasons for that action specified. The applicant or licensee shall have the right to appeal such denial, suspension, or revocation to the town ~~clerk~~council. Such appeal shall be filed in writing no later than ten days from the date of the town clerk's decision. A hearing shall be held ~~within at the next available regular meeting of the town council, provided that said meeting is at least ten days from 30 days from~~ the date of the written notice of appeal. Within ~~30~~ten days from the date of the conclusion of the hearing, the town clerk shall notify the applicant or licensee, in writing, of ~~his recommendation and the reason therefor~~the decision of the town council. The decision of the town ~~clerk~~council shall be final.
- (c) For purposes of this section, a licensee or applicant, whether the same is a person, partnership, firm, corporation or other entity, and all persons having a beneficial interest in the operation of a massage

establishment (except stockholders owning less than five percent of the stock in a corporation) shall be subject to the provisions of this section and be treated as if they were the licensee or applicant.

- (d) Where the town refuses to grant a license to an applicant or has revoked a license under this article, the affected licensee or applicant shall be disqualified from reapplying for such license for 12 months immediately following such action taken by the town.

(e) Each day a violation exists shall constitute a separate offense.

(Ord. No. 467, § 1(7-12-8), 11-18-2004)

Secs. 22-370—22-396. Reserved.