

ATTACHMENT B

Chapter 14.5 - MASSAGE AND BODYWORK THERAPY

FOOTNOTE(S):

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Editor's note— Ord. No. 13-141, adopted Nov. 12, 2013, amended Ch. 14.5 in its entirety to read as set out herein. Former Ch. 14.5 pertained to similar subject matter and derived from Ord. No. 01-132, § 1, adopted June 5, 2001; Ord. No. 02-123, §§ 1, 2, adopted June 18, 2002.

ARTICLE I. - IN GENERAL

Sec. 14.5-1. - Declaration of purpose.

The City of Greensboro recognizes that the improper practice of massage and bodywork therapy is potentially harmful to the public. To protect public health, safety, welfare and morals the provisions and regulations of this chapter are ordained for the privilege of carrying on the businesses, trades, or professions wherein massage or other physical manipulation of the human body is carried on or practiced.

(Ord. No. 13-141, § 1, 11-12-13)

Sec. 14.5-2. - Definitions

(a) The following definitions shall apply in this chapter:

- (1) *Massage and bodywork therapy.* Systems of activity applied to the soft tissues of the human body for therapeutic, educational, or relaxation purposes. The application may include:
 - a. Pressure, friction, stroking, rocking, kneading, percussion, or passive or active stretching within the normal anatomical range of movement.
 - b. Complementary methods, including the external application of water, heat, cold, lubricants, and other topical preparations.
 - c. The use of mechanical devices that mimic or enhance actions that may possibly be done by the hands.

This definition shall include by reference the definition of massage and bodywork therapy as defined in G.S. § 90-622 as amended.

- (2) *Massage and bodywork therapist or massagist.* A person engaged in the practice of massage and bodywork therapy as defined above.
- (3) *Practice of massage and bodywork therapy.* The application of massage and bodywork therapy to any person for a fee or other consideration. "Practice of massage and bodywork therapy" does not include the diagnosis of illness or disease, medical procedures, chiropractic adjustive procedures, electrical stimulation, ultrasound, prescription of medicines, or the use of modalities for which a license to practice medicine, chiropractic, nursing, physical therapy, occupational therapy, acupuncture, or podiatry is required by law.

(Ord. No. 13-141, § 1, 11-12-13)

Sec. 14.5-3. - Prohibitions.

A person/~~licensee~~ permittee shall not:

- (1) Employ, contract with, or hire a person to carry on the practice of massage and bodywork therapy unless such employee, person contracted with, or person hired, has a current state

massage and bodywork therapy license issued pursuant to Article 36 of Chapter 90 of the North Carolina General Statutes.

- (2) Lease, rent, or otherwise knowingly allow the use of any premises by any person for the purpose of carrying on the profession or business of massage and bodywork therapy unless such lessee, renter, or user is in possession of a current state massage and bodywork therapy license issued pursuant to Article 36 of Chapter 90 of the North Carolina General Statutes.
- (3) Employ any person under the age of eighteen (18) years in the operation of a massage business.

(Ord. No. 13-141, § 1, 11-12-13)

ARTICLE II. - ~~PRIVILEGE LICENSE~~ BUSINESS PERMIT REQUIREMENTS

Sec. 14.5-4. - Individuals practicing and carrying on the business of massage and body work therapy.

- (a) Any person practicing the profession of massage and bodywork therapy who has a current state massage and bodywork therapy license issued pursuant to Article 36 of Chapter 90 of the North Carolina General Statutes is exempt from a city ~~privilege license tax~~ business permit.
- (b) Any business, corporation, LLC, LLP, partnership or individual who hires employees and is not otherwise exempt from licensure that employs, contracts with, or hires others to perform massage and bodywork therapy, shall be subject to a city ~~privilege tax~~ business permit ~~in the amount of one hundred dollars (\$100.00).~~
- (c) Any person or entity applying for a business permit for a massage business ~~privilege license~~ prescribed herein shall be upon a form approved by the city manager and shall be filed with the city manager or his designee ~~tax collector~~. Every such application shall be affirmed by the applicant and shall contain the following information:
 - (1) If the applicant is an individual, the name and residence address of such person. If the applicant is a business, corporation, LLC, LLP, or partnership, the name, residence address, and Social Security Number of all persons having any legal or beneficial interest in such applicant;
 - (2) The address of the premises where the massage business shall be located. Nothing in this subsection shall prevent a massagist employed by a licensed permitted massage business from performing massages on behalf of that business at locations removed from the physical premises where the massage business is licensed permitted;
 - (3) A complete statement of all convictions of any person(s) whose name(s) is (are) required to be given in paragraph (c)(1) above, of any crime involving sexual misconduct, including, but not limited to, G.S. §§ 14-177 through 14-202.1 (Article 26, Offenses Against Public Morality and Decency) and G.S. §§ 14-203 through 14-208 (Article 27, Prostitution), of section 46-172, or of any federal statute relating to prostitution, or of any violation of any law or ordinance of any governmental unit concerning or related to the business or profession of massage therapy;
 - (4) A complete statement of any revocation, by any governmental unit, of any license or permit to operate a massage business or to engage in the business or profession of massage held by any person(s) whose name(s) is (are) required to be given in paragraph (c)(1) above;
 - (5) A complete statement of any conviction or findings of any person(s) whose name(s) is (are) required to be given in paragraph (c)(1) above, for violation of any statute, law, ordinance, or regulation of any government concerning the operation of a massage business or the business or profession of massage;
 - (6) The name and address of any massage business or other establishment owned or operated by any person(s) whose name(s) is (are) required to be given in paragraph (c)(1) or profession of massage is carried on within the State of North Carolina;

- (7) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant;
- (d) The city manager or his designee ~~tax collector~~ shall transmit a copy of the application to the police department for an investigative report; to planning department or other appropriate department to determine compliance with all zoning and building regulations and ordinances; and to the fire department to determine compliance with any law relating to fire protection. The police and fire departments and the inspections division shall, within a reasonable time, not to exceed thirty (30) days, report the results of their examinations to the city manager or his designee ~~tax collector~~. An applicant who, consistent with zoning regulations, lawfully operates the massage business out of the applicant's home and who signs a written statement that the applicant will not perform massage within the home or allow the public to enter the home in connection with the massage business is not required to submit to a building or fire prevention inspection.
- (e) Any person or entity applying for a business permit for a massage business ~~privilege license~~ shall also be required to submit with the license permit application their North Carolina Employer ID number and a list including the name, address, home telephone numbers and North Carolina driver's license number or picture ID issued by the North Carolina DMV of each and every employee, contract worker or hiree who is to perform massage or bodywork therapy, and a copy of the current state massage and body work therapy license issued to each such employee, contract worker, or hiree pursuant to Article 36 of Chapter 90 of the North Carolina General Statutes and further that the business ~~licensee~~ permittee shall immediately within fourteen (14) days notify the city manager or his designee ~~tax collector~~ of the City of Greensboro if and when such state license expires and is not immediately renewed, or is revoked, suspended, or otherwise terminated; further and in the case of license permit renewals, the applicant shall provide a list of all employees, contract workers and hirees who provided massage therapy on the business premises in the ninety (90) days immediately preceding the date of the application.
- (f) During the course of the ~~privilege license~~ business permit year, and upon the written request of the city manager or his designee ~~tax collector~~, licensees permittees will provide a complete and accurate update of the list required in, and by, paragraph (c) and (e) above, including all required information. Such update shall be received in the office of the city manager or his designee ~~tax collector~~ within fourteen (14) calendar days after the ~~licensee~~ permittee receives the written request for same.
- (g) The application shall be approved if it is determined that:
- (1) The application contains no misstatement of fact;
 - (2) All persons employed as massagists or who will perform massage hold a valid license to practice massage and bodywork therapy issued by the State of North Carolina;
 - (3) The applicant, or any person having any legal or beneficial ownership interest in the applicant is over the age of eighteen (18) years and has not been convicted of any crime involving sexual misconduct, including, but not limited to, G.S. §§ 14-177 through 14-202.1 (Article 26, Offenses Against Public Morality and Decency) and G.S. §§ 14-203 through G.S. 14-208 (Article 27, Prostitution), of section 46-172, or of any federal statute relating to prostitution, or of any violation of any law or ordinance of any governmental unit concerning or related to the business or profession of massage therapy within the previous ten (10) years;
 - (4) The proposed establishment conforms to all requirements of applicable zoning, building, and fire prevention codes; and
 - (5) The applicant or any person having a legal or beneficial ownership interest in the applicant has not, for the three-year period preceding the application, had a previously-issued license or permit for engaging in the business or profession of massage therapy revoked.
- (h) Posting of license. Any massagist shall post the North Carolina State Massage and Bodywork Therapy License required by this article in his or her work area in a prominent place.
- (i) Hours of operation. No business, corporation, LLC, LLP, partnership or individual ~~licensed~~ permitted under this article shall admit customers or prospective customers, or remain open for business, or

allow, permit, or condone any massage or treatment of any person upon the premises between the hours of 11:30 p.m. and 5:00 a.m.

- (j) No business, corporation, LLC, LLP, partnership or individual not ~~licensed~~ permitted or exempted under this chapter shall engage in any of the following:
 - (1) Practice of massage and bodywork therapy.
 - (2) Advertise, represent, or hold out himself or herself to others to be a massage and bodywork therapist.
 - (3) Use any title descriptive of any branch of massage and bodywork therapy to describe his or her practice.
- (k) Exemption. Any person exempted from the requirement of a North Carolina Massage and Bodywork Therapy License under G.S. § 90-622 as amended is exempt from article II of this chapter.

(Ord. No. 13-141, § 1, 11-12-13)

ARTICLE III. - ENFORCEMENT

Sec. 14.5-5. - Fines and revocation.

- (a) A ~~license~~ business permit issued pursuant to this chapter shall be issued a notice of violation if any of the following is determined:
 - (1) That the ~~licensee~~ permittee has violated any requirement of this chapter;
 - (2) That the ~~licensee~~ permittee, or any agent of the ~~licensee~~ permittee, employs or permits to be on the premises of the applicant's massage business any person practicing the business or profession of massage who has not been licensed by the State of North Carolina or who has not been issued the regulatory ~~license~~ permit required by this article, or whose license or permit under this article or under North Carolina General Statutes has been revoked or is currently suspended;
 - (3) That the ~~licensee~~ permittee violates any zoning, building, or fire prevention ordinance, or if exempted from building or fire prevention inspections, performs massage to a client or for a fee within the home or allows the public to enter the home in connection with the massage business;
 - (4) That any current employee of the ~~licensee~~ permittee is convicted of any felony in connection with his or her employment, or is convicted of any crime involving sexual misconduct, including, but not limited to the laws indicated in subsection 14.5-4(g)(3) or is convicted or held responsible for any other governmental units' regulations of massages;
- (b) Upon the second notice of violation within a twelve-month rolling period, the ~~license~~ business permit pursuant to this chapter shall be revoked. ~~License~~ Permit revocation shall precipitate and require closure of the business. The rights of the ~~licensee~~ permittee in the event of ~~license~~ permit revocation shall be the same as are spelled out in section 13-48193 of the Greensboro Code of Ordinances.
- (c) A ~~license~~ permit issued pursuant to this chapter shall be revoked if any of the following is determined. The rights of the ~~licensee~~ permittee in the event of ~~license~~ permit revocation shall be the same as are spelled out in section 13-48193 of the Greensboro Code of Ordinances.

That the ~~licensee~~ permittee, or the legal or beneficial owner of any interest in the ~~licensee~~ permittee, is convicted of any crime involving sexual misconduct, including, but not limited to, the laws indicated in subsection 14.5-4(g)(3) or is convicted or held responsible for any other governmental units' regulations of massages;

- (d) ~~License Permit~~ revocation shall precipitate and require closure of the business. Any ~~licensee~~ ~~permittee~~ ~~licensed~~ ~~permitted~~ under this chapter found in operation after revocation of ~~license~~ ~~permit~~ shall be subject to a fine of five hundred dollars (\$500.00) each day. ~~License Permit~~ revocation or operation without a ~~license~~ ~~permit~~ shall precipitate and require closure of the business and further require that no similar use be made of the property during the period of revocation and for six (6) months thereafter. All fines levied under this chapter are due within thirty (30) days of notice of the violation and fine.
- (e) The civil penalties provided in this chapter are remedies enforceable by a civil action in the nature of a debt. No violation of this article shall constitute a misdemeanor as provided in G.S. § 14-4.
- (f) Any enforcement actions taken by the City, including but not limited to notices of violation, revocations of privilege license, decision of the Zoning Administrator, decision of the or decision of the City Manager or his designee, while the City was acting under the authority granted to it by the ordinances pertaining to privilege licenses, shall remain in effect and shall be enforced under the provisions of this chapter.

(Ord. No. 13-141, § 1, 11-12-13)