

CHAPTER 12-A

MASSAGE PARLORS, ESTABLISHMENTS AND TECHNICIANS

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12A-1 Purposes and intent. It is the purpose and intent of this chapter to provide for the orderly regulation of the massage business in the city. The rules and regulation established herein are necessary to protect the public health, safety and general welfare. The business of massage is hereby designated “police and health regulated.”

(Ord. 433, S2)

12A-2 Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Health Department. The department of public health of the county when the latter is enforcing the terms of this chapter.

License. The business license to operate a massage establishment required by this chapter.

Massage. A method of procedures upon the external parts of the body, including, but not limited to, rubbing, stroking, kneading, tapping with the hand or any instrument, facial massage, fomentations, electric or magnetic treatment or alcohol rubs or oil rubs.

Massage Establishment. A fixed place of business where any person engages in, conducts, carries on or permits to be engaged in, conducted or carried on, any business of giving Turkish, Russian, Swedish, vapor, sweat, electric, salt, shower, sponge or any other kind or character of baths where massages, as defined in this section, or other similar procedures are given as administered.

Massage Technician or Technician. Any person, regardless of sex, who gives or administers to another person for any form of consideration, a massage or bath as those words are defined in this section.

Permit. The permit to engage in the activities of a massage technician required by this chapter.

Person. A natural person, firm, copartnership, association or corporation.
(Ord. 433 S4)

12A-3 Massage establishment license – Required. It shall be unlawful for any person to engage in, conduct, carry on or permit to be engaged in, conducted or carried on, in, or within any premises within the city, a massage establishment without the license required by this section. A license shall be issued to any person unless:

- a) The applicant knowingly made a material misstatement in the application for a license; or
- b) The applicant has been convicted of a felony or any crime involving moral turpitude.
(Ord. 433 S5)

12A-4 Same – Application fee; renewal fee. Any person desiring to obtain a license to operate a massage establishment shall make an application to the chief of police. A nonrefundable fee of one hundred dollars shall accompany the submission of each application to defray, in part, the costs of investigation and report. The fee to renew a license granted pursuant to section 12A-3 shall be fifty dollars. The application fee required by this section is not in lieu of the license tax required by section 12A-5.
(Ord. 433. S6)

12A-5 Same – Annual license fee. Each person who operates a massage establishment within the city shall pay to the city clerk an annual license fee of five hundred dollars which shall be due on January 1 and delinquent on March 1.
(Ord 433 S7)

12A-6 Massage technician permit – Required; issuance. It shall be unlawful for the holder of a license to operate a massage establishment to employ or otherwise allow a

person who has not obtained a valid massage technician's permit to be employed on the premises of the massage establishment.

It shall be unlawful for any person to act as a massage technician without the permit required by this section. A permit shall be issued to any person who has fulfilled the requirements of this chapter unless:

- a) The applicant knowingly made a material misstatement in the application for a license; or
- b) The applicant has been convicted of a felony or any crime involving moral turpitude. (Ord 433 S 3, 18)

12A-7 Same- Application fee; annual license fee.

- a) Any person desiring to obtain a permit to act as a massage technician shall make an application to the chief of police. A nonrefundable fee of twenty-five dollars shall accompany the submission of each application to defray, in part, the costs of investigation and report. A permit to act as a massage technician does not authorize the operation of a massage establishment. Any person obtaining a permit to act as a massage technician who desires to operate a massage establishment must separately apply for a license therefor. A person who applies for a license to operate a massage establishment and who desire to act as a massage technician within such massage establishment who pays the fee required by section 12A-4 of this chapter, shall not be required to pay the fee required by this section.
- b) Any person obtaining a permit to act as a massage technician shall pay to the city clerk an annual license fee of one hundred dollars, which shall be due on January 1 of each calendar year and delinquent on March 1. (Ord 433 S9)

12A-8 Application contents. Any applicant for a license or permit under this chapter shall submit the following information:

- a) The full name and present address of applicant.
- b) The previous addresses of applicant, if any, for a period of five years immediately prior to the date of the application and the dates of residence at each.
- c) Written statements of at least five bona fide adult persons who may be easily and conveniently contacted, that the applicant is of good moral character.
- d) Written proof that the applicant is over the age of eighteen years.
- e) Applicant's height, weight, color of eyes and hair.

- f) Three portrait photographs at least two inches by two inches taken within the last six months.
- g) Business, occupation or employment history of applicant for the five years immediately preceding the date of application.
- h) The business license or permit history of the applicant; whether such person, in previously operating in this or another city or state under license or permit, has had such license or permit suspended or revoked, the reason therefor, and the business activity or occupation subsequent to such suspension or revocation.
- i) All arrests or convictions except minor traffic offenses with a full explanation of the circumstances thereof.
- j) A certificate from a medical doctor licensed to practice in the state stating that the applicant has been examined and found to be free of any contagious or communicable disease. The certificate must be submitted prior to the issuance of the permit and the examination must be given within thirty days immediately preceding the filing of the application for the permit. This requirement shall not apply to applicants for a massage establishment license.
- k) Applicant shall be required to furnish his fingerprints.
- l) The applicant must furnish a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage technician is taught. The terms “recognized school” or “other institution of learning” shall mean and include any school or institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage technicians; which school requires a resident course of study of not less than two hundred hours to be given in not less than three calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning showing the successful completion of such course of study or learning. Schools offering correspondence courses not requiring actual attendance of class shall not be deemed a “recognized school.” The city shall have the right to confirm the fact that the applicant has actually attended classes in a recognized school for the aforementioned minimum time periods. In lieu of the foregoing educational requirements, an applicant may submit written verifiable proof that he or she has actually been engaged in practice as a massage technician for not less than one year prior to the effective date of this chapter in the county and shall successfully pass an examination in massage techniques to be administered by the city with the assistance of persons technically qualified to evaluate competency in massage techniques.

(Ord. 433, S10)

12A-9 Application procedures generally. Any applicant for a permit or license pursuant to these provisions shall present to the police department an application containing the information required by this chapter. The chief of police shall have a reasonable time not to exceed thirty days in which to investigate the application and the background of the applicant. Based on such investigation, the chief of police, or his representative, shall submit a recommendation as to the approval or denial of the permit or license to the city clerk.

The building official, the fire department, and the health department shall inspect the premises proposed to be devoted to the massage establishment and shall, within thirty days, make a separate recommendation to the city clerk concerning compliance with the foregoing provisions.

The city clerk, after receiving the aforementioned recommendations, shall grant a license to the applicant if all requirements for a massage establishment prescribed by this chapter have been met, and shall issue a permit to the applicant if all requirements prescribed by this chapter have been met except that the city clerk may recommend to the city council that an application for a license be subject to a public hearing and council approval, when in her judgment the issuance of a license or permit will have an adverse effect upon public health, safety or welfare of the community. At the conclusion of the hearing, the city council shall either grant or deny the license or permit and the decision of the city council shall be final.

Any person denied a permit or license by the city clerk pursuant to this chapter may appeal such denial in accordance with the provisions of this chapter. (Ord. 433, S11)

12A-10 Appeal – Hearing conducted by city clerk’s office – Generally. Any person who has been denied a license or permit or any person whose license or permit issued pursuant to this chapter has been suspended or revoked, may request a hearing conducted by the city clerk’s office. The request for a hearing must be in writing and must be made within ten calendar days from the date of the decision denying, suspending or revoking the license or permit. Upon receiving a written request for a hearing, the city clerk shall call a hearing and shall set forth in writing and send to the applicant or licensee or permittee, by means of registered mail, certified mail or hand delivery, notice that within a period of not less than five days nor more than fourteen days from the date of the posting of such notice, a hearing shall be conducted to determine the existence of any facts which constitute grounds for the denial, suspension or revocation of a license or permit. The notification shall include the date, time and place of the hearing. The hearing shall be conducted by a hearing officer appointed by the city clerk. The applicant, licensee or permittee may have the assistance of counsel or may appear by counsel and shall have the right to present evidence. In the event that the applicant, licensee or permittee fails to appear at the hearing, the evidence of the existence of facts which constitute grounds for the denial, suspension or revocation of the license or permit shall be considered un rebutted. The hearing need not be conducted according to the statutory or common laws rules of evidence. Any relevant evidence may be admitted and considered by the city clerk if it is the sort of evidence on which responsible persons are accustomed to rely

in the conduct of serious affairs. A copy of the decision of the hearing officer specifying findings of fact and the reason for the decision shall be furnished to the applicant, licensee or permittee. The hearing officer shall inform the party against whom the decision is rendered of his right to appeal pursuant to section 12A-12.

(Ord 433, S 23)

12A-11 Same – Same – Exception. When in the opinion of the city clerk there is an immediate threat to the public health, welfare or safety, she may deny, suspend or revoke a license or permit issued pursuant to this chapter without calling a hearing. The person affected may appeal such decision pursuant to section 12A-12. The effect of such decision shall not be stayed during pendency of such appeal. (Ord 433, S25)

12A-12 Same – Hearing before city council; stay of suspension or revocation by hearing officer. Within ten days after receipt of the decision of the hearing officer, any party affected by the decision may file with the city clerk a written request for a public hearing before the city council. Upon the filing of such a request, the city clerk shall within fourteen days thereafter set the matter for a hearing and shall notify the applicant of the date, time and place of such hearing at least five days before the hearing date. At the hearing, any person may present evidence in opposition to, or in support of the appellant's case. At the conclusion of the hearing the city council shall either grant or deny the appeal, and the decision of the city council shall be final.

The effect of a decision by the hearing officer shall be stayed while an appeal to the city council is pending or until the time for filing such appeal has expired, except as provided in section 12A-11. (Ord 433, S 24, 26)

12A-13 Display of licenses and permits. Every person to whom a license or permit has been issued shall display such license or permit in a conspicuous place so that the same may be readily seen by persons entering the premises where the massage, bath or treatment is given. (Ord. 433, S 13)

12A-14 Name of business to comply with license. No person licensed to do business as herein provided shall operate under any name or conduct his business under any designation not specified in his license. (Ord. 433, S 14)

12A-15 Facilities. No license to conduct a massage establishment shall be granted unless an inspection by the city clerk reveals that the proposed establishment complies with each of the following minimum requirements:

- a) A recognizable and legible sign shall be posted at the main entrance identifying the premises as a massage establishment.
- b) Minimum lighting shall be provided in accordance with the Building Code of the city and, in addition, at least one artificial light of not less than sixty

watts shall be provided in each room or enclosure where the massage services are performed on patrons.

- c) Minimum ventilation shall be provided in accordance with the Building Code of the city.
- d) Equipment approved by the health department for disinfecting and sterilizing instruments used in performing acts of massage shall be provided.
- e) Hot and cold running water shall be provided at all times.
- f) Closed cabinets shall be provided, which cabinets shall be utilized for the storage of clean linen.
- g) In any establishment in which massage services are rendered only to members of the same sex at any one time, such persons of the same sex may be placed in a single separate room or operators of the massage establishment may elect to place such persons of the same sex in separate enclosed rooms or booths having adequate ventilation to an area outside said room or booth while massage services are being performed.
- h) Adequate bathing, dressing, locker and toilet facilities shall be provided for patrons. A minimum of one tub or shower, one dressing room containing a separate locker for each patron to be serviced, which locker shall be capable of being locked, and a minimum of one toilet and one wash basin shall be provided for every massage establishment; provided, however, that if male and female patrons are to be served simultaneously at such establishment, a separate massage room or rooms, separate dressing facilities and separate toilet facilities shall be provided for male and female patrons. Further, in those establishments where steam rooms or sauna baths are provided, if male and female patrons are to be served simultaneously, separate rooms or sauna rooms shall be provided for male and female patrons.
- i) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary conditions. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned and disinfected with a disinfectant approved by the health department each day the business is in operation. Bathtubs shall be thoroughly cleaned and disinfected with a disinfectant approved by the health department after each use.
- j) Clean and sanitary towels and linens shall be provided for each patron of the establishment. No common use of towels or of linens shall be permitted.

- k) A minimum of one separate wash basin shall be provided in each massage establishment for the use of employees of any such establishment, which basin shall provide soap or detergent and hot and cold running water at all times and shall be located within or as close as practicable to the area devoted to the performing of massage services. In addition, there shall be provided at each wash basin sanitary towels placed in permanently installed dispensers.

This section shall be construed to require minimum standards only. All applicable provisions of this chapter have full force and effect. The applicant shall be required to comply with all applicable provisions of this chapter. (Ord. 433, S 12)

12A-16 Semiannual physician's certificate. All licensed massage technicians shall on or before January 1 and June 1 of each year file with the chief of police, a certificate from a physician licensed by the state, stating that within thirty days of the date of filing of such certificate with the chief of police, such massage technician has no contagious or communicable diseases. (Ord. 433, S 22)

12A-17 Suspension or revocation of license or permit. In the event that any person holding a license or permit issued pursuant to this chapter shall violate or cause or permit to be violated any of the provisions of this chapter, or any provision of any other chapter relating to or regulating said business or occupation, or shall conduct or carry on such business or occupation in an unlawful manner, the city clerk may, in addition to other penalties provided by this Code, suspend or revoke the license or permit after the licensee or permittee has been given the opportunity for a hearing as is decreed in section 12A-10. For the purpose of the section, a criminal court conviction shall not be required to support a finding of a violation of any law. (Ord. 433, S 21)

12A-18 Sale or transfer of establishment. Upon the sale or transfer of any interest in a massage establishment, the license shall be null and void. A new application shall be made by any person desiring to own or operate the massage establishment. An application fee of fifty dollars shall be payable for each such application. If such location of the licensed premises is to be changed, the applicant shall also pay the change of location fee required by section 12A-19. (Ord 433, S 16)

12A-19 Change of location. A change of location of a licensed massage establishment may be approved by the city clerk provided all applicable provisions of this chapter are complied with and a change of location fee of fifty dollars to defray, in part, the costs of investigation and report, has been paid to the city. (Ord. 433, S 15)

12A-20 Periodic inspections. The departments of building inspection, housing, fire, police and health shall, from time to time, make an inspection of each massage establishment in the city for the purpose of determining that the provisions of this chapter are met. (Ord. 433, S 17)

12A-21 Off premises massages. It shall be unlawful for any person to engage in, conduct, carry on or permit to be engaged in, conducted or carried on the business of massage in any hotel room, motel room, guest house or other place of public accommodation. This section shall not be construed to prohibit:

- a) Maintaining a licensed massage establishment upon the premises of a place of public accommodation; or
- b) To prevent the holder of a license issued pursuant to this chapter from giving or administering massages with hospitals, convalescent centers, rest homes or the private home of a patron. (Ord. 433, S 19)

12A-22 Records of treatment. Every person operating a massage establishment under a license issued pursuant to this chapter shall keep a record of the date and hour of each treatment, the name and address of the patron, and the name of the massage technician administering such treatment. Such records shall contain a signed statement by the patron that the patron knows of no medical reasons why a massage should not be given. Said records shall be open to inspection by officials charged with the enforcement of these provisions for the purposes of law enforcement of these provisions and for no other purpose. The information furnished or secured as a result of any such inspection shall be confidential. Any unauthorized disclosure or use of such information by any officer or employee of the city shall constitute a misdemeanor and such officer or employee shall be subject to the penalty provisions of this code in addition to any other penalties provided by law. Identical records shall be kept of treatments rendered off the business site, and, in addition, shall describe the address where the treatment was rendered. Such records shall be maintained for a period of two years.

(Ord 433, S 20)

12A-23 Exemptions. This chapter shall not apply to:

- a) Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the state.
- b) Nurses who are registered under the laws of the state.
- c) Trainers of any amateur, semiprofessional or professional athlete or athletic team.
- d) Barbers and beauticians who are duly licensed under the laws of the state.
- e) Any other person who is licensed to give massages or baths under the laws of the state. (Ord. 433 S29)