

CHAPTER 115: MASSAGE PARLORS AND HEALTH SALONS

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115.01 DEFINITIONS

For the purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) "EMPLOYEE" - Any person over 18 years of age, other than a massager, who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or patrons.
- (b) "LICENSEE" - The person to whom a license has been issued to own or operate a public bath, steam bath, health club, reducing salon, or massage establishment as defined herein.
- (c) "MASSAGE" - Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment, or other similar preparations commonly used in the practice of massage, under such circumstances that is reasonably expected that the person to whom the

treatment is provided or some third person on his behalf will pay money or give any other consideration or any gratuity therefor.

(d) "MASSAGE ESTABLISHMENT" - Any establishment having a source of income or compensation derived from the practice of massage and which has a fixed place of business where any person, firm, association, or corporation engages in or carries on any of the activities defined as "MASSAGE"

(e) "MASSAGIST, MASSEUR," OR "MASSEUSE" - Any person who, for any consideration whatsoever, engages in the practice of massage.

(f) "OUTCALL MASSAGE SERVICE" - Any business, the function of which is to engage in or carry on massages at a location designated by the customer or client rather than at a massage establishment.

(g) "PATRON" - Any person over 18 years of age who receives a massage under such circumstances that it is reasonably expected that he will pay money or give any other consideration therefor.

(h) "PERMITTEE" - The person to whom a permit has been issued to act in the capacity of a massagist.

(i) "RECOGNIZED SCHOOL" - Any school or educational institution licensed to do business as a school or educational institution in the state in which it is located, or any school recognized by or approved by or affiliated with the American Massage and Therapy Association, Inc. and which has for its purpose the teaching of the theory, method, profession, or work of massage, and requires a resident course of study not less than 70 hours before the student shall be furnished with a diploma or certificate of graduation from the school or institution of learning following the successful completion of the course of study or learning. (Ord. 3267-1977)

115.02 PERMIT AND LICENSE REQUIRED

(a) Business license required

No person shall engage in or carry out the business of giving steam baths or operating public baths, health clubs, reducing salons, or operating a massage establishment unless he has a valid massage business license issued by the city pursuant to the provisions of this chapter for each and every separate office or place of business conducted by the person.

(b) Massagist's permit required

No person shall practice massage as a massagist, employee, or otherwise, unless he has a valid and subsisting massagist's permit issued to him by the city pursuant to the provisions of this chapter. (Ord. 3267-1977) Penalty, see 10.99

115.03 EXEMPTIONS

(a) This chapter shall not apply to the following individuals while engaged in the personal performance of the duties of their respective professions:

(1) Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the State of Indiana

(2) Nurses who are registered under the laws of this state or Licensed Practical Nurses or persons employed by an accredited hospital or nursing home

(3) Barbers and beauticians who are duly licensed under the laws of this state, except that this exemption shall apply solely to the massaging of the neck, face, scalp, and hair of the customer or client for cosmetic or beautifying purposes

(b) This ordinance shall not apply to organizations which are qualified under Section 501 (c) (3) of the Internal Revenue Code and to which organizations contributions by individuals are deductible, for Federal Income Tax purposes as a charitable contribution, and shall not apply to individuals while acting in the employ of these organizations. (Ord. 3267-1977)

115.04 APPLICATION FOR MASSAGE ESTABLISHMENT LICENSE

(a) Every applicant for a license to be a licensee, or to maintain, operate, or conduct a massage establishment shall file an application under oath with the city on a form provided by the City Controller and pay a nonrefundable annual license fee of \$100 per year or any part thereof. Licensees who have already paid the license fee for the current period shall not be required to pay an additional fee hereunder.

(b) The application, once accepted, shall be referred to the Board of Public Works and Safety for investigation. Copies of the application shall within five days also be referred to the Department of Buildings, the Fire Department, and the Health Department. The departments shall within 30 days inspect the premises proposed to be operated as a massage establishment and shall make written verification to the Board of Public Works and Safety concerning compliance with the codes of the city that they administer. The application shall also be referred to the Police Department for investigation of the applicant's character and qualifications.

- (c) Each application shall contain the following information:
- (1) A definition of service to be provided
 - (2) The location, mailing address, and all telephone numbers where the business is to be conducted
 - (3) The name and residence address of each applicant (hereinafter all provisions which refer to applicant include an applicant which may be a corporation or partnership)
 - (A) If applicant is a corporation, the names and residence addresses of each of the officers and directors of the corporation and of each stockholder owning more than 10% of the stock of the corporation, and the address of the corporation itself, if different from the address of the massage establishment.
 - (B) If applicant is a partnership, the names and residence addresses of each of the partners including limited partners, and the address of the partnership itself, if different from the address of the massage establishment.
 - (4) The two previous addresses immediately prior to the present address of the applicant
 - (5) Proof that the applicant is at least 18 years of age
 - (6) Individual or partnership applicant's height, weight, color of eyes and hair, and sex
 - (7) Copy of identification such as driver's license and social security card
 - (8) One portrait photograph of the applicant at least two inches by two inches and a complete set of applicant's fingerprints which shall be taken by the Police Chief or his agent. If the applicant is a corporation, one portrait photograph at least two inches by two inches of all officers and managing agents of the corporation and a complete set of the officers' and agents' fingerprints which shall be taken by the Police Chief or his agent. If the applicant is a partnership, one front-face portrait photograph at least two inches by two inches in size of each partner, including a limited partner in the partnership, and a complete set of each partner or limited partner's fingerprints which shall be taken by the Police Chief or his agents.

(9) Business, occupation, or employment of the applicant for the three years immediately preceding the date of application

(10) The massage or similar business license history of the applicant, whether the person is previously operating in this or another city or state has had a business license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation

(11) All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes, and place convicted

(12) The name and address of each massagist who is or will be employed in the establishment

(13) A diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession, and work of massage is taught, provided that if the applicant will not himself engage in the practice of massage defined herein, he need not possess the diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession, and work of massage is taught

(14) The name and address of any massage business or other establishment owned or operated by any person whose name is required to be given in (c) (3) above wherein the business or profession of massage is carried on

(15) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant

(16) Authorization for the city, its agents, and employee to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualification of the applicant for the permit

(17) Any other identification and information necessary to discover the truth of the matters required to be set forth in the application

(18) The names, current addresses, and written statement of at least three bona fide permanent residents of the United States that the applicant is of good moral character; if the applicant is able, the statement must first be furnished from residents of the city, then the county, then the State of Indiana and lastly from the rest of the United States. These references must be persons other than relatives and business associates.

(d) On the completion of the form and the furnishing of all foregoing information the Board of Public Works and Safety shall accept the application for the necessary investigations. The holder of the license shall notify the Board of Public Works and Safety of each change in any of the dates required to be furnished by this section within ten days after the change occurs. (Ord. 3267-1977)

115.05 APPLICATION FOR MASSAGISTS' PERMITS

(a) Application for a massagist's business permit shall be made to the Board of Public Works and Safety in the same manner as provided in 115.04 accompanied by the annual nonrefundable, massagist's permit fee of \$75 per year or part thereof. Massagist who have already paid the permit fee for the current period shall not be required to pay an additional fee hereunder.

(b) The application shall contain but not be limited to the following:

(1) The business address and all telephone numbers where the massage is to be practiced

(2) Name and residence address and all names, nicknames, and aliases by which the applicant has been known, including the two previous addresses immediately prior to the present address of the applicant

(3) Social Security number, driver's license number, if any, and date of birth

(4) Applicant's weight, height, color of hair and eyes, and sex

(5) Written evidence that the applicant is at least 18 years of age

(6) A complete statement of all convictions of the applicant for any felony or misdemeanor or violation of a local ordinance, except misdemeanor traffic violations

(7) Fingerprints of the applicant taken by the Police Department

(8) Two front-face portrait photographs taken within 30 days of the date of application and at least two inches by two inches in size

(9) The name and address of the recognized school attended, the dates attended and a copy of the diploma or certificate of graduation awarded the applicant showing the applicant has completed not less than 70 hours of instruction. For persons presently employed as a masseur or masseuse in the city, this section shall not apply until January 1, 1978. Present employment shall be established by sworn affidavit from the

employer after which time the person must be actively engaged, enrolled, or participating in a course of study designed to fulfill the requirements of this section and which is certified to be an official of the approved school. The burden of establishing active engagement, enrollment, or participation shall be on the person seeking a permit herein. For persons not so employed, this section shall be effective on passage. In no event shall any person within the purview of this chapter act as aforesaid without satisfying the training requirement set forth within the city after January 1, 1978.

(10) The massage or similar business history and experience prior to the date of application, including but not limited to whether or not the person was previously operating in this or another city or state under license or permit, has had a license or permit denied, revoked, or suspended and the reasons therefor, and the business activities or occupations subsequent to the action of denial, suspension, or revocation

(11) The names, current addresses, and written statements of at least three bona fide permanent residents other than relatives, of the United States that the applicant is of good moral character; if the applicant is able, the statement must first be furnished from residents of the city, then the county, then the state and last from the rest of the United States.

(12) A medical certificate signed by a physician, licensed to practice in the State of Indiana, within seven days of the date of the application. The certificate shall state that the applicant was examined by the certifying physician and that the applicant is free of communicable disease. The additional information required by this section shall be provided at the applicant's expense.

(13) Any other information, identification, and physical examination of the person deemed necessary by the Police Chief in order to discover the truth of the matters hereinbefore required to be set forth in the application

(14) Authorization for the city, its agents, and employee to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualification of the applicant for the permit

(15) Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, with the declaration being duly dated and signed in the city. (Ord. 3267-1977)

115.06 ISSUANCE OF LICENSE OR PERMIT

The City shall issue a license for a public bath, steam bath, health club, reducing salon, or massage establishment or a permit for a masseur or masseuse, after ratification by the Board of Public Works and Safety, if all requirements for a massage establishment or massagist permit described in this chapter are met unless the Board finds:

- (a) The correct permit or license fee has not been tendered to the City, and, in the case of a check, or bank draft, honored with payment on presentation
- (b) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the City's building, zoning, and health regulations
- (c)
 - (1) The applicant, if an individual, or any of the stockholders holding more than 10% of the stock of the corporation, any of the officers and directors, if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, or the holder of any lien, of any nature, on the business or the equipment used therein and the manager or other person principally in charge of the operation of the business, have been convicted of any of the following offenses or convicted of an offense without the State of Indiana that would have constituted any of the following offenses if committed within the State of Indiana.
 - (A) An offense that amounts to a felony or misdemeanor except traffic violations
 - (2) The City may issue a license or permit to any person convicted of any crime described in (c)(1)(A) above if it finds that the conviction occurred at least five years prior to the date of the application.
- (d) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the permit application or in any document required by the City in conjunction therewith
- (e) The applicant has had a massage business, massagist, or other similar permit or license denied, revoked, or suspended by the City or any other state or local agency within five years prior to the date of the application

- (f) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, and the manager or other person principally in charge of the operation of the business, is not over the age of 18 years (Ord. 3267-1977)

115.07 APPROVAL OR DENIAL OF APPLICATION

The City shall act to approve or deny an application for a license or permit under this chapter within a reasonable period of time and in no event shall the city act to approve or deny the license or permit later than 90 days from the date that the application was accepted by the Board of Public Works and Safety. Every license or permit issued pursuant to this chapter will terminate at the expiration of one year from the date of its issuance unless sooner suspended or revoked. (Ord. 3267-1977)

115.08 POSTING OF LICENSE

- (a) Every massagist shall post the permit required by this chapter in his work area.
- (b) Every person, corporation, partnership, or association licensed under this chapter shall display the license in a prominent place. (Ord. 3267-1977)

115.09 REGISTER OF EMPLOYEES AND PATRONS

- (a) The licensee or person designated by the license of a public bath, steam bath, health club, reducing salon, or massage establishment shall maintain a register of all persons employed at any time as masseurs or masseuses and their permit numbers. The register shall be available at the public bath, steam bath, health club, reducing salon, or massage establishment to representatives of the City during regular business hours.
- (b) The licensee or person designated by the licensee of public bath, steam bath, health club, reducing salon, or massage establishment shall maintain a register of all patrons receiving massage. The register shall include name, driver's license number or social security number, and age of the patron and shall be maintained for a period of not less than one calendar year and shall be available for inspection during regular business hours by representatives of the City. (Ord. 3267-1977)

115.10 REVOCATION OR SUSPENSION OF LICENSE

- (a) Any license issued for a public bath, steam bath, health club, reducing salon, or massage establishment may be revoked or suspended by the City after notice and a hearing, for good cause, in any case where any of the provisions of this chapter are violated or where any employee of the licensee, including a

masseur or masseuse is engaged in any conduct which violates any of the state or local laws or ordinances at licensee's place of business and the licensee has actual or constructive knowledge by due diligence.

(b) The permit may also be revoked or suspended by the City after notice and hearing, on the recommendations of the Board of Public Works and Safety and Wayne County Health Department that the business is being managed, conducted, or maintained without regard to proper sanitation and hygiene. (Ord. 3267-1977)

115.11 REVOCATION OF MASSEUR OR MASSEUSE PERMIT

A masseur or masseuse permit issued by the Police Chief shall be revoked or suspended where it appears that the masseur or masseuse has been convicted of any offense which would be cause for denial of a permit on an original application, has made a false statement on an application for a permit, or has committed an act in violation of this chapter. (Ord. 3267-1977)

115.12 FACILITIES NECESSARY

No license to conduct a public bath, steam bath, health club, reducing salon, or massage establishment shall be issued unless an inspection by the City reveals that the establishment complies with each of the following minimum requirements:

(a) Construction of rooms used for toilets, rubs, steam baths, and showers shall be made waterproof with approved waterproofed materials and shall be installed in accordance with the City Building Code. Plumbing fixtures shall be installed in accordance with the Uniform Plumbing Code.

(1) Steam rooms and shower compartments shall have waterproof floors, walls, and ceilings approved by the City.

(2) Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sewer. Exception: Dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.

(3) A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.

(b) The premises shall have adequate equipment for disinfecting and sterilizing non disposable instruments and materials used in administering massages. The non disposable instruments and materials shall be disinfected after use on each patron.

(c) Closed cabinets shall be provided and used for the storage of clean linen, towels, and other materials used in connection with administering massages. All soiled linens, towels, and other materials shall be kept in properly covered containers or cabinets, which shall be kept separate from the clean storage areas.

(d) Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

(e) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap and a dispenser and with sanitary towels.

(f) All electrical equipment shall be installed in accordance with the requirements of the National Electrical Code. (Ord. 3267-1977)

115.13 OPERATING REQUIREMENTS

(a) Every portion of the licensed premises, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.

(b) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

(c) All employees, including masseurs and masseuses, shall be clean and wear clean garments whose use is restricted to the public bath, steam bath, health club, reducing salon, or massage establishment. A separate dressing room for each sex must be available on the premises with individual lockers for each employee.

(d) All public baths, steam baths, health clubs, reducing salons, or massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use and stored in a sanitary manner.

(e) No public bath, steam bath, health club, reducing salon, or massage establishment granted a license under the provisions of this chapter shall place, publish, or distribute or cause to be placed, published, or distributed any advertisement, picture, or statement which is known or through the exercise of reasonable care should be known to be false, deceptive, or misleading in order

to induce any person to purchase or utilize any professional massage services. (Ord. 3267-1977) Penalty, see 10.99

115.14 PERSONS UNDER AGE EIGHTEEN PROHIBITED ON PREMISES

No person shall permit any person under the age of 18 years to come or remain on the premises of any massage business establishment, as masseur, employee, or patron, unless the person is on the premises on lawful business. (Ord. 3267-1977) Penalty, see 10.99

115.15 REVOCATION OF LICENSE

Any license issued for a licensee as defined herein may be revoked or suspended by the Board of Public Works and Safety after notice and a hearing, in any case where any of the provisions of this chapter have been violated or that any statement made on the application for license would now be made false. The license shall be revoked should there exist any violation of the rules and regulations of the Health Department of Wayne County or the State of Indiana. (Ord. 3267-1977)

115.16 EMPLOYMENT OF MASSAGIST

No person shall employ as a massagist any person unless the employee has obtained and has in effect a permit issued pursuant to this chapter. (Ord. 3267-1977) Penalty, see 10.99

115.17 INSPECTION REQUIRED

The Chief of Police or his authorized representative shall from time to time make inspection of each public bath, steam bath, health club, reducing salon, or massage establishment for the purposes of determining that the provisions of this chapter are fully complied with. It shall be unlawful for any permittee to fail to allow the inspection officer access to the premises or hinder the officer in any manner. (Ord. 3267-1977) Penalty, see 10.99

115.18 SALE OR TRANSFER OF LICENSE

Any license granted herein is non transferable except on death of licensee. Any heir or devisee of a deceased licensee, or any guardian of an heir or devisee of a deceased licensee, may continue the business of the public bath, steam bath, health club, reducing salon, or massage establishment for a reasonable period of time not to exceed 60 days to allow for an orderly transfer of the license. (Ord. 3267-1977)

115.19 NAME AND PLACE OF BUSINESS

No person granted a license pursuant to this chapter shall operate under a name not specified in his license, nor shall he conduct business under any designation or location not specified in his license.

115.20 VIOLATION

Every person, except those specifically exempted by this chapter, whether acting as an individual owner, employee of the owner, operator, or employee of the operator, or as a mere agent or independent contractor for the owner, employee, or operator, or as a participant or worker directly or indirectly in any way, who gives massages, is a licensee as defined herein, or gives any of the services defined in this chapter without first obtaining a license or permit and paying a fee to do so to the office of the City Controller, or shall violate any provisions of this chapter, shall be guilty of a misdemeanor. (Ord. 3267-1977) Penalty, see 10.99