

Ordinance to Regulate Licensing of Massage Establishments and Massagists
Rockingham County
North Carolina

ROCKINGHAM COUNTY BOARD OF COMMISSIONERS

An Ordinance Regulating Licensing Of Massage Establishments and Massagists

The Rockingham County Board of Commissioners do hereby repeal that ordinance entitled "An Ordinance to Regulate Massage Parlors and Health Salons" enacted March 1, 1976, and do now adopt the following ordinance in accordance with North Carolina General Statute 153A-45 and related laws:

Section 1 - Purpose.

To protect the general health, safety, welfare and morals of the citizens of Rockingham County, the provisions hereinafter specified are ordained with respect to carrying on the business, or trade or profession of masseur or masseuse (hereinafter referred to as "massagists") and for the operation or carrying on of the businesses, trades or professions commonly known as massage parlors, health salons, physical culture studios, clubs or establishments, or similar establishments by whatever name designated, wherein physical culture, massage, hydrotherapy or other physical treatment of the human body is carried on or practiced. The provisions of this ordinance shall not apply to a regularly established and licensed hospital, sanitarium, nursing home or medical clinic, nor to the office or clinic operated by a duly qualified and licensed medical practitioner, osteopath or chiropractor in connection with his or her practice of medicine, chiropractic or osteopathy, provided, however, that such office or clinic is regularly used by such medical practitioner, chiropractor or osteopath as the principal location for his or her practice of medicine, chiropractic or osteopathy.

Section 2 - Definitions.

For the purpose of this ordinance, the following words and phrases shall have the meanings ascribed to them in this section:

(a) Employee. The word "employee" shall mean and include any person compensated for services performed in or in connection with a massage establishment.

(b) Massage. The word "massage" means pressure on, or friction against, or stroking or kneading the body by manual or mechanical means under the direct operation of the operators.

(c) Massage Establishment. The term "massage establishment" means any establishment, commonly known as a massage parlor, health salon, or physical culture studio, wherein one of the functions is such that a massage is given, engaged in or carried on, or permitted to be given, engaged in or carried on, or wherein physical culture, hydrotherapy, or other physical treatment of the human body is carried on or practiced.

(d) Massagist. Any person who applies or is engaged in manual or mechanical massage or similar treatment to the human body or limbs shall be deemed, within the terms of this section, a "massagist."

Section 3 - Licensing of Massage Establishments.

(a) No person, partnership, corporation, or association shall operate a massage establishment as herein defined unless such person, partnership, corporation or association shall have first applied for and received the privilege license provided by this section.

(b) Every application for the privilege license prescribed herein shall be upon a form approved by the County Manager and shall be filed with the County Tax Supervisor. Every such application shall be made under oath and shall contain the following information obtained by the applicant at applicant's expense:

(1) If the applicant is a person, the name residence address, and Social Security number of such person. If the applicant is a partnership, corporation or association, the name, residence address, and Social Security number of all persons having any legal or beneficial interest in such applicant; and

(2) The street address of the premises where the massage establishment shall be located. If the premises has no street address, then the tax map number of the property on which the establishment shall be located; and

(3) A complete statement of all convictions of any persons whose name is required to be given in paragraph (b)(1) above for any felony, or prostitution or any violation of any law relative to prostitution; or for violation of any Federal law or other state law which violation would be considered a felony under North Carolina law; and

(4) A complete statement of any revocation, by any governmental unit, of any license to operate a massage establishment or to engage in the business or profession of massage held by any person whose name is required to be given in paragraph (b)(1) above; and

(5) A complete statement of any conviction of any person whose name is required to be given in paragraph (b)(1) above, for violation of any statute, law, ordinance or regulation of any government concerning the operation of a massage establishment or the business or profession of massage; and

(6) The name and address (or tax map number) of any massage establishment or other business owned or operated by any person whose name is required to be given in paragraph (b)(1) above wherein the business or profession of massage is carried on; and

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

(8) A copy of the deed and lease or other instrument giving applicant rights to use of premises.

(9) A photograph and set of rolled fingerprint impressions prepared by the Rockingham County Sheriff's Department of the applicant and each employee of the applicant who shall work at the establishment for which license is applied;

(10) Certified reports of criminal records investigations concerning applicant, and each of applicant's employees, and all persons having any legal or beneficial interest in the applicant which shall be prepared and certified by the North Carolina State Bureau of Investigations. The Federal Bureau of Investigation, the Sheriff of each county in which said person has resided for the past five years and the Chief of Police of each town or city in which said person now resides;

(11) A certificate from the County Fire Marshall determining that the proposed location is in compliance with all fire protection laws and regulations; and

(12) A certificate from such building inspectors as have jurisdiction over the premises to be licensed, certifying that the proposed activity is in compliance with all zoning ordinances and building codes applicable to the premises; and

(13) A non-refundable processing fee of Two Hundred Fifty Dollars (\$250.00) in cash or certified check payable to Rockingham County, to cover the reasonably necessary expenses to the County for processing the application and verifying the accuracy thereof.

(c) The County Tax Supervisor shall transmit a copy of the application to the Sheriff's Department for an investigative report. The Sheriff's Department shall, within a reasonable time, not to exceed thirty (30) days, report the results of their examinations to the County Tax Supervisor.

(d) An application in proper form, accompanied by all reports required by this section, shall be approved by the County Tax Supervisor if:

(1) The application contains no misstatement of fact; and

(2) The applicant, or any person having any legal or beneficial ownership interest in the applicant, has not been convicted of any crime involving sexual misconduct, including but not limited to those offenses proscribed by N.C.G.S. 14-177 through N.C.G.S. 14-202.1, Article 26 (Offenses against public morality and decency) or N.C.G.S. 14-203 through 14-208, Article 27 (Prostitution), or of the Rockingham County Ordinance regulating massage establishments and massage 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; or of any law of North Carolina, the Federal government or any other state which would constitute a felony if committed in North Carolina; and

(3) The applicant conforms to all requirements of applicable zoning, building, and fire

(4) 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 for engaging in the business or profession of massage revoked.

(e) Upon approval of the application and upon receipt of a Two Hundred Fifty Dollar (\$250.00) license fee, the County Tax Supervisor shall issue a privilege license to applicant.

(f) In the event the applicant does not meet all of the above mentioned conditions, then the application shall be denied by the County Tax Supervisor. Thereafter, the applicant shall have ten (10) days in which to file an appeal and request a hearing before the Board of County Commissioners. Upon appeal, the Board of County Commissioners shall, within sixty (60) days, hold a hearing on the appeal and make a final determination thereof with respect to the application for a license.

(g) A license issued pursuant to this section shall be revoked by action of the Board of County Commissioners if the Board finds that:

(1) The licensee has violated any provision of this ordinance; or

(2) The licensee, or any agent of the licensee, employs or permits to be on the premises of the applicant's massage establishment any person practicing the business or profession of massage who has not been issued the privilege license required by Section 4 hereof, or whose license under Section 4 has been revoked; or

(3) The licensee, or the legal or beneficial owner of any interest in the licensee has been convicted of any crime involving sexual misconduct, including but not limited to those offenses proscribed by N.C.G.S. 14-177 through N.C.G.S. 14-202.1, Article 26 (Offenses against public morality and decency) or N.C.G.S. 14--203 through N.C.G.S. 14--208, Article 27 (Prostitution), or of the Rockingham County Ordinance regulating massage establishments and massages, 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; or violation of any law of North Carolina or the Federal government or any other state which would be a felony if done in North Carolina; or

(4) Any employee of the licensee 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 those offenses proscribed by N.C.G.S. 14-177 through N.C.G.S. 14--202.1, Article 26 (Offenses against public morality and decency) or N.C.G.S. 14-203 through N.C.G.S. 14-208, Article 27 (Prostitution) or of the Rockingham County Ordinance regulating massage establishments and massages 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; or violation of any law

of North Carolina, the Federal government or any other state which would be a felony if done in North Carolina; or

(5) The licensee violates any zoning, building or fire prevention ordinance.

(h) A license issued pursuant to this Article is void if the licensee moves or ceases operating a massage parlor at the location required to be stated in the application for license pursuant to Section 3(b)(2) of this ordinance.

Section 4 - Licensing of Massagists.

(a) No person shall engage in the business or profession of massage unless such person shall have first applied for and received the privilege license provided by this section.

(b) The application for the license required by this section shall be upon a form approved by the County Manager and shall be filed with the County Tax Supervisor. Such application shall be given under oath and shall contain the following information obtained at applicant's expense:

(1) The name, age, residence address, and Social Security number of the applicant; and

(2) A complete statement of the previous business or occupation of the applicant for the two years immediately preceding the date of application, including any massage establishment experience; and

(3) A complete statement of all convictions of the applicant for any felony or misdemeanor or violation of a local ordinance; and

(4) A complete statement of any revocation of any license granted by any governmental unit to the applicant to engage in the business or profession of massage; and

(5) The date and place of applicant's birth, the name of applicant's parents, and the residence address or addresses of the applicant for the five years immediately preceding the date of application; and

(6) A photograph and complete set of rolled fingerprint impressions prepared by the Rockingham County Sheriff's Department.

(c) The applicant shall submit, as part of the application required in subsection (b) hereof, the following:

A medical certificate signed by a physician, licensed to practice in North Carolina, within twenty 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 information required by this subsection shall be provided at the applicant's expense.

(d) The County Tax Supervisor shall transmit a copy of the application to the Sheriff's Department for an investigative report. The Sheriff's Department shall, within a reasonable time, not to exceed thirty (30) days, report the results of its investigation to the County Tax Supervisor.

(e) An application in proper form accompanied by all reports required by this section shall be approved by the County Tax Supervisor if:

(1) The applicant is at least eighteen (18) years of age; and

(2) The application contains no misstatement of fact; and

(3) The applicant has not been convicted of any crime involving sexual misconduct, including, but not limited to those offenses proscribed by N.C.G.5. 14-177 through N.C.G.5. 14-202.1, Article 26 (Offenses against public morality and decency) or N.C.G.5. 14--203 through 14---208, Article 27 (Prostitution), or of the Rockingham County Ordinance regulating massage establishments and massages or of any Federal statute relating to prostitution, or for violation of any law or ordinance of any governmental unit concerning or related to the business or profession of massage or for violation of any law in North Carolina, Federal law or law of any other state which would constitute a felony if done in North Carolina; and

(4) The applicant has not, for the three year period preceding the application, had a previously issued license for engaging in the business or profession of massage revoked; and

(5) The applicant is free from communicable disease as evidenced by the medical certificate required herein; and

(6) The applicant has not been previously convicted of any violation of any provision of this ordinance.

(f) Upon approval of the application and upon receipt of a Fifty Dollar (\$50.00) license fee, the County Tax Supervisor shall issue a privilege license to the applicant.

(g) In the event the applicant does not meet all of the above mentioned conditions, then the application shall be denied by the Tax Supervisor. Thereafter, the applicant shall have ten (10) days in which to file an appeal and request a hearing before the Board of County Commissioners. Upon appeal, the Board of County Commissioners shall, within sixty (60) days, hold a hearing on the appeal and make a final determination thereof with respect to the application for a license.

(h) The Board of County Commissioners shall have authority to direct that any person licensed under this section submit to a medical examination by a licensed physician approved by the Board. This authority shall be exercised only when the Board has reason to believe that any such person has contracted a communicable disease. Refusal to submit to such examination shall be grounds for revocation of such license as provided in subsection (i) of this section. Notwithstanding the provisions of this subsection, every person licensed under this section shall file and continue to file with the County Tax Supervisor a new medical certificate with each application for renewal of the license prescribed by this section. Failure to file such updated certificates shall be grounds for revocation of such license as provided in subsection (i) of this section.

(i) A license issued pursuant to this section shall be revoked by action of the Board of County Commissioners if the Board finds:

(1) The licensee has violated any provision of this ordinance; or

(2) The licensee is afflicted with a communicable disease; or

(3) The licensee has failed to be examined by a licensed physician when required by the Board of County Commissioners pursuant to subsection (h) of this section, or has failed to file any medical certificate required by said subsection (h); or

(4) The licensee has been convicted of a felony or of a violation of the law of any other state or the Federal government which would be a felony if done in North Carolina or any crime involving sexual misconduct, including, but not limited to those offenses proscribed by N.C.G.S. 14-177 through N.C.C.S. 14-202.1, Article 26 (Offenses against public morality and decency) or N.C.G.S. 14-2203 through 14-208, Article 27 (Prostitution), or of the Rockingham County Ordinance regulating massage establishments and massages or of any Federal statute relating to prostitution, or for violation of any law or ordinance of any governmental unit related to the business or profession of massage.

Section 5 - Employer to Use Only Licensed Employees. No person, corporation, partnership, or association licensed under Section 3 hereof shall allow or permit any person to massage or treat any person upon the premises operated by the licensee unless the person giving such massage or treatment has complied with all requirements of licensing under Section 4 including periodic medical examinations by a licensed physician. Violation of this section shall be grounds for revocation of the license issued to such violator pursuant to this ordinance.

Section 6 - Posting of License.

(a) Every massagist shall post the license required by this ordinance in his work area.

(b) Every person, corporation, partnership, or association licensed under Section 3 hereof shall display such license in a prominent place on the premises of the massage establishment.

Section 7 - Notice and Hearing On Revocation.

Before the Board of County Commissioners revokes a license issued pursuant to this ordinance, the Board shall at least ten days prior to revoking the license, cause a written notice to be sent by certified mail to the licensee affected or applicant affected, at the address stated in the license or application. The notice shall advise the affected party of a right to appear before the Board of County Commissioner, with or without legal counsel, at a stated time and place, for the purpose of presenting any evidence relevant to such revocation and for the purpose of hearing all evidence submitted and examining or cross-examining any person providing such evidence.

Section 8 - Privilege License Annual.

The licenses required under this ordinance are Annual Privilege Licenses. Such licenses shall be due and payable in the same manner as prescribed for other privilege licenses issued by the County Tax Supervisor and shall expire on the 31st day of December in the year said license is issued.

Section 9 - No licensee shall engage in the business regulated hereunder or permit any employee to engage in such business except between the hours of Eight O' Clock A.M. and Ten O' Clock P.M.

Section 10 - It shall be unlawful for any person under the age of Eighteen (18) to patronize any establishment licensed hereunder and it shall be the duty of the licensee to determine the ages of its customers.

Section 11. It shall be unlawful for any female person to massage a male person or any male person to massage a female person in a premises licensed pursuant to this ordinance.

Section 12. It shall be unlawful for any licensee pursuant to this ordinance to intentionally massage the genitals of a person being massaged so as to sexually arouse or stimulate such person.

Section 13 - Penalties.

Any person convicted of violating any provisions of this ordinance shall be punished by fine or imprisonment as provided by N.C.G.S. 14--4.

Section 14 - Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of County Commissioners hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof,

irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 15 - Repeal of Conflicting Ordinances.

All ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 16 - Applicability.

This ordinance shall be in full force and effect from and after the date of its passage; provided, however, any person, partnership, corporation or association engaged in the operation of a massage establishment and every person engaged in the business or profession of massage, at the time of the enactment of this ordinance shall have sixty (60) days in which to comply with the provisions of this ordinance.

The foregoing ordinance was moved for adoption by Commissioner R. I. Smith, Jr. seconded by Commissioner Weldon R. Price and unanimously adopted by the entire Board of Commissioners, all of whom was present and voting at the regular meeting of the Rockingham County Board of Commissioners, Monday, December 3, 1979.

Filed and indexed in the ordinance book for Rockingham County on Page _____.

Signature of Odessa P. Johnson, Clerk Rockingham County Board of Commissioners