

ARTICLE 4. BATH HOUSES; MASSAGE ESTABLISHMENTS

5-401. DEFINITIONS. For the purpose of this article, the following words shall mean:

(a) Bath House. - The occupation of maintaining and operating for compensation any services of baths of all kinds, including all forms and methods of hydrotherapy.

(b) Body Painting Studios. - The occupation of maintaining, operating and offering any services for compensation of applying paint or other substance, whether transparent or non-transparent, to or on the human body when such body is wholly or partially nude, by any means of application, technique, or process.

(c) Employee. - Any person, other than masseurs or masseuses, who renders any service to a permittee under this article, who receives compensation from the permittee or patron.

(d) Establishment. - Any establishment having a place of business where any person, firm, partnership, association or corporation engages in or carries on or permits to be engaged in or carried on any of the activities mentioned herein for compensation.

(e) Massage. - Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.

(f) Massage therapist. - Any person who, for any consideration whatsoever, engages in the practice of massage as herein defined. Any reference herein to "masseuse" or "masseur" shall mean and apply to a "massage therapist."

(g) Modeling studio. - The occupation of maintaining, operating and offering any services for compensation of modeling for the purpose of reproducing the human body, wholly or partially in the nude, by means of photograph, painting, sketching, drawing or otherwise. To be included within the definition of modeling studios is the occupation or practices for compensation of offering one's body, wholly or partially in the nude, for the purpose of having designs of whatever nature applied thereto by whatever process or technique with any kind of substance whether it be transparent or non-transparent.

(h) Patron. - Any person over 18 years of age who utilizes or receives the services of any establishment subject to the provisions of this chapter and under such circumstances that it is reasonably expected that he or she will pay money to give any other consideration therefor.

(i) Recognized school. - Any school or institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a resident course of study not less than seventy hours to be given in not more than three calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such.

(Ord. 856, Sec. 1; Ord. 598; Code 2008)

5-402. PERMIT REQUIRED. No person, firm, partnership, association or corporation shall operate a bath house, massage establishment, body painting studio or modeling studio, as defined herein, without first having obtained a permit

from the governing body. A separate permit shall be required for each and every separate place of business conducted by any one permittee. Such permit shall be valid only from January 15 to January 14 of a calendar year. However, the fee may be prorated to the nearest month if an application is made after July 1 of any year.

(Ord. 856, Sec. 2; Code 2008)

5-403. PERMIT FEES. Every applicant for a permit to maintain or operate any such an establishment or to perform massage therapy services in any such establishment shall file an application with the Chief of Police on a form approved by the Chief of Police.

Each establishment shall pay an annual fee of \$50.00. Each individual massage therapist shall pay an annual fee of \$25.00. Any individual who operates an establishment and who also personally provides massage therapy shall only pay the \$50.00 establishments fee, and shall not have to pay an additional permit fee by virtue of also providing massage therapy services.

(Ord. 856, Sec. 3; Code 2008)

5-404. APPLICATION. The application for a permit to operate any such establishment shall set forth the exact nature of the services to be provided, the proposed place of business and facilities therefor, and the name, address and telephone number of each applicant, including any stockholder holding more than 10 percent of the stock of the corporation, any partner, when a partnership is involved, and any manager. (Ord. 598; Code 1993, 5-504)

5-405. SAME; STOCKHOLDERS. The applicant, employee, manager, partner and any stockholder holding more than ten percent of the stock of applicant corporation shall in addition furnish:

(a) Name, address, telephone number and written proof applicant is at least eighteen years of age.

(b) Two portrait photographs, at least two inches by two inches, and fingerprints.

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

(d) History of person or applicant in such business or businesses, whether such person, in previously operating in this or another city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity of occupation subsequent to such action of suspension or revocation.

(e) All criminal citations, arrests, or charges (except for minor traffic offenses), whether resulting in a dismissal, conviction, diversion, suspended imposition of sentence, or other resolution; the jurisdiction in which cited, arrested, or charged; and the offense for which a citation, arrest, or charge was made, as well as the circumstances surrounding any such incident.

(f) Authorization for the city to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(g) The position or function the applicant is to perform within such establishment.

(Ord. 856, Sec. 4; Ord. 598; Code 2008)

5-406. EDUCATION REQUIREMENTS. (a) Any person, including an applicant for a massage establishment permit, who engages or intends to engage in the

practice of massage shall, upon making application for a permit, supply the name and address of the recognized school attended, the date attended and a copy of the diploma or certificate of graduation awarded the applicant showing the applicant has successfully completed not less than 300 hours of instruction in the theory, method, or practice of massage.

(b) Applicants for a masseur or masseuse permit may substitute one year's continuous experience as a masseur or masseuse in lieu of the requirement of a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method and work of massage is taught. Such masseur or masseuse must obtain an affidavit attesting to such experience from the owner of the establishment where the continuous year of experience occurred.
(Ord. 856, Sec. 5; Ord. 598; Code 2008)

5-407. IDENTIFICATION CARDS. All or any employee issued a permit by the chief of police under the provisions of this article shall, at all times when working in an establishment subject to the provisions of this article, have in their possession a valid identification card issued by the city bearing the employee's permit number, the employee's physical description and a photograph of such employee. Such identification cards shall be laminated to prevent alteration. All persons granted permits under this article shall at all times keep their permits available for inspection upon request of any person, who by law may inspect same.
(Ord. 598; Code 1993, 5-507)

5-408. ISSUANCE OF PERMIT. After the filing of an application in the proper form, the governing body shall issue a permit for a massage establishment, bath house, modeling studio or body painting studio or employee permit, unless:

- (a) The correct permit fee has not been tendered to the city, and, in the case of a check or bank draft, honored with payment upon presentation;
- (b) The operation fails to comply with state and local laws, including, but not limited to, the city's building, zoning and health regulations.
- (c) Any of the following have been convicted of any crime, including, but not limited to, any felony, misdemeanor, code violation, ordinance violation, or other violation of the laws of the United State or of any state or city of the United States where such conviction was for an offense involving force or threat of force, violence, theft, dishonesty, fraud, sexual misconduct or moral turpitude or where such conviction was for a violation of this ordinance or a substantially similar ordinance or enactment of any other jurisdiction, unless such conviction occurred at least five years prior to the date of the application:
 - (1) The applicant, if an individual;
 - (2) Any of the stockholders holding more than ten percent of the stock of the corporation;
 - (3) Any of the officers and directors, if the applicant is a corporation;
 - (4) Any of the partners, including limited partners, if the applicant is a partnership; and
 - (5) The manager or other person principally in charge of the operation of the business.
- (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 establishment, bath house, body painting studio or modeling studio as defined herein, or other similar permit or license, denied, revoked or suspended for any of the above causes 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 eighteen years;

(g) The manager or other person principally in charge of the operation of the business would be ineligible to receive a permit under the provisions of this article; and

(h) In the case of a masseur or masseuse that the applicant has not successfully completed a resident course of study from a recognized school as required under the provisions of this article.

(Ord. 856, Sec. 5; Ord. 598; Code 2008)

5-409. PERMIT DISPLAYED. Any permit issued under the provisions of this article shall at all times be displayed by the permittee in an open and conspicuous place on the premises where the permitted business is conducted.

(Ord. 598; Code 1993, 5-409)

5-410. REVOCATION OR SUSPENSION OF PERMIT. (a) Any permit issued for an employee or for a massage establishment, bath house, modeling studio or body painting studio may be revoked or suspended by the governing body where it is found that any of the provisions of this article are violated.

(b) The governing body, before revoking or suspending any permit, shall give the permittee at least ten days written notice of the charges against him or her and the opportunity for a public hearing before the governing body, at which time the permittee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(Ord. 598; Code 1993, 5-510)

5-411. FACILITIES. No permit to conduct such establishment shall be issued unless an inspection by the city or its authorized representative reveals that the establishment complies with the following minimum requirements:

(a) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given, floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the business's operation shall be maintained in a clean and sanitary condition. Towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth or any area within any permitted establishment which is fitted with a door capable of being locked.

(b) Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each twenty 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.

(c) Lavatories or wash basins 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 in a dispenser and with sanitary towels.

(d) Massage therapy may also be offered as a home occupation provided that all facilities are clean and safe, and all other ordinances of the City are complied with including, but not limited to, all City ordinances and requirements pertaining to home occupations.

(Ord. 856, Sec. 6; Ord. 598; Code 2008)

5-412. CERTIFICATION. The City or the City's authorized representative shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the chief of police. Nothing contained herein shall be construed to eliminate other requirements of any statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof. (Ord. 856, Sec. 7; Ord. 598; Code 2008)

5-413. INSPECTIONS. The City or the City's authorized representative shall from time to time make an inspection of each permitted establishment in this city for the purposes of determining compliance with the provisions of this article. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer immediate access to the premises or to hinder such officer in any manner. Any failure on the part of any permittee or employee to grant immediate access to such inspector shall be grounds for the revocation or suspension of any business or employee permit.

(Ord. 856, Sec. 7; Ord. 598; Code 2008)

5-414. OPERATION REGULATIONS. The following regulations shall apply to any such establishment:

(a) Such business shall be closed to the public and operations shall cease between the hours of 12:00 a.m. and 6:00 a.m. each day.

(b) No service shall be given which is clearly dangerous or harmful in the opinion of the City or the City's authorized health or safety representative, and after such notice in writing to the licensee from such director.

(c) All operators permitted under the provisions of this article shall at all times be responsible for the conduct of business on their permitted premises and for any act or conduct of his or any of his employees which constitutes a violation of the provisions of this chapter. Any violation of the city, state or federal laws committed on the permitted premises by any such permittee or employee affecting the eligibility or suitability of such person to hold a license or permit may be grounds for suspension or revocation of the same.

(Ord. 856, Sec. 8; Code 2008)

5-415. SAME; EQUIPMENT; ATTIRE. (a) Every portion of a permitted establishment, including appliances and personnel shall be kept clean and operated in a sanitary condition.

(b) All employees, masseurs and masseuses must be modestly attired. Diaphanous, flimsy, transparent, form-fitting or tight clothing is prohibited. Clothing must cover the employees, masseurs or masseuses chests at all times. Hemlines of skirts, dresses or other such attire may be no higher than the top of the knee.

(c) The private parts of patrons must be covered by towels, cloths or undergarments when in the presence of an employee, masseur or masseuse. Any contact with a patron's genital area is strictly prohibited.

(d) All permitted establishments, when applicable, shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in approved, sanitary manner.

(e) Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.

(Ord. 856, Sec. 9; Ord. 596; Code 2008)

5-416. SUPERVISION. A permittee shall have the premises supervised at all times when open for business. Any business rendering massage services shall have one person who qualifies as a masseur or masseuse on the premises at all times while the establishment is open. The permittee shall personally supervise the business and shall not violate or permit others to violate, any applicable provision of this article. The violation of any such provision by any agent or employee of the permittee shall constitute a violation by the permittee. (Ord. 598; Code 1993, 5-516)

5-417. EMPLOYEE REGISTERS. All operators permitted under the provisions of this article shall keep and maintain on their premises a current register of all their employees showing such employees name, address and permit number. Such register shall be open to inspection at all reasonable times by any health inspector or members of the city police department. (Ord. 596; Code 2008)

5-418. MINORS PROHIBITED. No person shall permit any person under the age of 18 years to come or remain on the premises of any permitted business establishment, as masseur, employee or patron, unless such person is on the premises on lawful business. (Ord. 598; Code 1993, 5-518)

5-419. ADVERTISING. No establishment granted a permit under provisions of this article shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than those services as described in section 5-401 or that employees, masseurs or masseuses are dressed in any manner other than described in section 5-415 nor shall any establishment indicate in the text of such advertising that any service is available other than those services described in section 5-401. (Ord. 598; Code 1993, 5-519)

5-420. TRANSFER OF PERMITS. (a) No massage business, bath house, modeling studio, body painting studio or employee permits are transferable, and such authority as a permit confers shall be conferred only on the permittee named therein.

(b) Any applications made, fees paid and permits obtained under the provisions of this article shall be in addition to and not in lieu of any other fees, permits or licenses required to be paid or obtained under any ordinances of this city.
(Ord. 598; 1993, 5-520)

5-421. EXCEPTIONS. The provisions of this article shall not apply to hospitals; nursing homes, sanitariums or persons holding an unrevoked certificate to practice the healing arts under the laws of this state, or persons working under the direction of any such persons or in an such establishment. Nor shall this article apply to health care professionals, barbers, aestheticians, manicurists, cosmetologists, or other licensed professionals carrying out their particular profession or business and holding a valid, un-revoked license or certificate of registration issued by this state.
(Ord. 856, Sec. 10; Ord. 598, Code 2008)

5-422. The City or the City's authorized representative may make and enforce reasonable rules and regulations not in conflict with but to carry out the intent of this article. (Ord. 856, Sec. 11; Code 2008)

5-423. RESTRICTION TO PREMISES. All business or activity provided for under this article shall be conducted and performed on the respective premises. However, bath house or massage shop permittees or employees at the direction of a duly licensed physician may perform their services in behalf of physically incapacitated patients in such patients home, residence or other designated place, or such permittee or employee may render such treatment to persons who are bedfast or are so physically incapacitated that it is impractical to provide same to such persons at a permitted location. All such services so rendered shall have received the prior approval of the City or its authorized representative.
(Ord. 598; Code 1993, 5-523; Code 2008)