

AN ORDINANCE TO REGULATE MASSAGE PARLORS WITHIN
THE CORPORATE LIMITS OF THE TOWN OF GREENWOOD
AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

BE IT ORDAINED by the Town Council of the Town of Greenwood, in Council met, in the manner following, to wit:

Section 1. Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this Section shall govern the construction, meaning and application of words and phrases used in this Ordinance:

(a) "Employee" means any person over eighteen (18) years of age other than a masseur who renders any service in connection with the operation of a massage business and receives compensation for the operator of the business or its patrons.

(b) "Massage" means any method of treatment of superficial parts of a patron for medical, hygenic, exercise or relaxation purposes by rubbing, stroking, kneading, tapping, pounding, vibrating or stimulating with the hands or any instrument or by the application of air, liquid or vapor baths of any kind whatever.

(c) "Masseur" means any person who engages in the practice of massage as defined herein. The use of the masculine gender shall include in all cases the feminine gender as well.

(d) "Patron" means any person over the age of eighteen (18) years who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

(e) "Recognized School" means 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 of not less than one thousand (1,000) hours before the student shall be furnished with a diploma or certificate of graduation from such school following the successful completion of such course of study or learning.

Section 2. (a) No person shall engage in or carry on the business of massage unless he has received a valid massage business permit issued

by the Town pursuant to the provisions of this Ordinance for each and every separate office or place of business conducted by such person.

(b) No person shall practice massage as a masseur, employee or otherwise, unless he has a valid and subsisting masseur's permit issued to him by the Town pursuant to the provisions of this Ordinance.

Section 3. Any person desiring a massage business permit shall file a written application with the Secretary of the Town Council on a form to be furnished by the Secretary. The applicant shall accompany the application with the tender of the correct permit fee as hereinafter provided and shall, in addition, furnish the following information:

(a) The type of ownership of business, i.e., whether individual, partnership, corporation or otherwise.

(b) The name, style and designation under which the business or practice is to be conducted.

(c) The business address and all telephone numbers where the business is to be conducted.

(d) The following information concerning the applicant, if an individual; and concerning each stockholder holding more than ten percent (10%) of the stock of the corporation, each officer and each director, if the applicant is a corporation; and concerning the partners, including limited partners, if the applicant is a partnership; and concerning the manager or other person principally in charge of the operation of the business:

(1) Name, complete residence address and residence telephone numbers.

(2) The two (2) previous addresses immediately prior to the present address of the applicant.

(3) Written proof of age.

(4) Height, weight and color of hair and eyes.

(5) Two (2) front-face-portrait photographs taken within thirty (30) days of the date of the application and at least two-by-two (2x2) inches in size.

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(6) All criminal convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted, the offense for which convicted, and the circumstances thereof.

(7) A complete set of fingerprints taken and to be retained on file by the Secretary of the Town Council, or his authorized representative.

(8) Diploma, certificate or other written proof of graduation from a recognized school by the person who shall be directly responsible for the operation of management of the massage business.

(e) Authorization for the Town, its agents and employees, 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.

(f) The name and addresses of three (3) adult residents of the County who serve as character references. These references must be persons other than relatives and business associates.

(g) Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed in the Town.

Section 4. Any person desiring a masseur's permit shall file a written application with the Secretary of the Town Council on a form to be furnished by the Secretary. The applicant shall tender with the application the correct permit fee as hereinafter provided and shall, in addition, furnish the following:

(a) The business address to whom all telephone numbers where the massage is to be practiced.

(b) The following personal information concerning the applicant:

(1) Name, complete residence address and residence telephone numbers.

(2) The two (2) previous addresses immediately prior to the present address of the applicant.

(3) Written proof of age.

(4) Height, weight and color of hair and eyes.

(5) Two (2) front-face-portrait photographs taken within thirty (30) days of the date of the application and at least two-by-two (2x2) inches in size.

(6) All criminal convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted, the offense for which convicted, and the circumstances thereof.

(7) A complete set of fingerprints taken to be retained on file by the Secretary of the Town Council, or his authorized representative.

(8) Diploma, certificate or other written proof of graduation from a recognized school where the theory, method, profession or work of massage is taught.

(9) A statement in writing from a licensed physician in the State that he has examined the applicant within thirty (30) days of the date of the application and believes the applicant to be free of all communicable diseases.

(c) Authorization for the Town, its agents and employees, 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.

(d) Written declaration by the applicant under penalty of perjury that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed in the Town.

Section 5. (a) Upon receiving the application for a massage business or a masseur's permit, the Secretary of the Town Council shall conduct an investigation into the applicant's criminal history.

(b) In the case of application for massage business permits, the Secretary of the Town Council shall cause to be conducted an investigation of the premises where the massage business is to be carried on for the purpose of assuring that such premises comply with all the sanitation requirements as set forth in this Ordinance and with the regulations of public health, safety and welfare.

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(c) Before any permit shall be issued under this Ordinance, the Secretary of the Town Council shall first sign his approval of the application.

Section 6. The Secretary of the Town Council shall issue a massage business permit within forty-five (45) days of receipt of the application, unless he finds that:

(a) The correct permit fee has not been tendered to the Town, and in the case of a check or bank draft, honored with payment upon presentation.

(b) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including but not limited to, any building, zoning and health regulation in force in the Town.

(c) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the Town in connection therewith.

(d) The applicant has had a massage business, masseur or other similar permit or license denied, revoked or suspended for any of the above causes by the Town or any other state or local agency within two (2) years prior to the date of the application.

(e) 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 (18) years.

(f) The manager or other person principally in charge of the business has not successfully completed a resident course of study or learning of not less than one thousand (1,000) hours from a recognized school where the theory, method, profession or work of massage is taught.

Section 7. The massage business permittee shall display his permit, and that of each and every masseur employed in the business, in an open and conspicuous place on the premises of the massage business.

Section 8. The permit fee for a massage business shall be One Hundred Fifty Dollars (\$150.00) per year, or any part thereof. The

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permit fee for a masseur shall be Fifty Dollars (\$50.00) per year or any part thereof.

Section 9. Any massage business or masseur's permit issued under this Ordinance shall be subject to suspension or revocation by the Secretary of the Town Council for violation of any provision of this Ordinance, or for any ground that would warrant the denial of such permit upon the application. The Secretary of the Town Council, upon such revocation or suspension, shall state his reasons in writing, specifying the particular ground or grounds for such revocation or suspension.

Section 10. No massage business or masseur permit shall be transferable, separate or divisible, and such authority as the permit confers shall only be conferred upon the permittee named therein.

Section 11. All premises used by permittees hereunder shall be periodically inspected by the Secretary of the Town Council, or his authorized representative for safety of the structure and adequacy of the plumbing, ventilation, heating and illumination. 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 other equipment used in the massage business shall be maintained in a clean and sanitary condition. Towels, linens 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 (1) patron. Heavy, white paper may be substituted for sheets, provided that such paper is changed for every patron. No massage service or practice shall be carried on within any cubicle, room, booth or any area within a massage establishment which is fitted with a door capable of being locked. Nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of the premises, nor to preclude authorized inspection thereof.

Section 12. A permittee shall have the premises supervised at all times when open for business. Any business rendering massage services

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shall have one (1) person who qualifies as a masseur on the premises at all times while the establishment is open. The permittee shall personally supervise the business and shall not violate nor permit others to violate any applicable provision of this Ordinance. The violation of any such provision by an agent or employee of the permittee shall constitute a violation by the permittee.

Section 13. No person shall permit any person under the age of eighteen (18) years to come or remain on the premises of any massage business establishment as a masseur, employee or patron, unless such person is on the premises on lawful business.

Section 14. No person shall sell, give, dispense, provide nor keep or cause to be sold, given, dispensed, provided or kept, any alcoholic beverage on the premises of any massage business.

Section 15. The provisions of this Ordinance shall not apply to hospitals, nursing homes, sanitarians, or persons holding an unrevoked certificate to practice the healing arts under the laws of the State or persons working under the direction of any such persons or in any such establishment, nor shall this Ordinance apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by the State of Delaware.

Section 16. Any person, firm or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00) or imprisoned for a term not to exceed thirty (30) days, or both, for each offense. For the provisions of this Ordinance, a separate offense shall be deemed to have been committed on each day on which a violation occurs or continues.

Section 17. If any clause, sentence or provision of this Ordinance shall be declared invalid by a court of competent jurisdiction, such declaration shall not affect the remaining provisions hereof.

Section 18. This Ordinance shall become effective on the date of its adoption.

ADOPTED:

7/24/93

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