



TOWN OF FARMVILLE

CODE OF ORDINANCES

CHAPTER 35 – HEALTH MASSAGE THERAPY

Section 1 PURPOSE AND OBJECTIVE

To protect the public health, safety, welfare and morals, the following privilege license provisions and regulations are ordained for the privilege of carrying on the business, trade or profession of health massage therapy and for the operation or carrying on of the business, trade or profession commonly known as health message therapy establishment wherein health massage therapy or physical manipulation of the human body is carried on or practiced. The objective is to permit only the professions of massage or health massage therapy as authorized under this chapter.

Section 2 DEFINITIONS

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

1. Health Massage Therapy: Any form of manipulation of the muscles, skin or other soft tissue of the body by kneading, stroking, pressing, tapping or movement of extremities, whether applied by hand, arm, foot or aided by mechanical device.
2. Health Massage Therapist: Any person, whether male or female, who is engaged in the practice of health massage therapy, and who receives compensation for his or her services.
3. Health Massage Therapy Establishment: Any business or establishment wherein health massage therapy is practiced.
4. Business or Profession of Health Massage Therapy: Includes health massage therapy or treatment of any person for a fee or for other good or valuable consideration from the person receiving the health massage therapy.
5. Private Parts: The penis, scrotum, mons veneris, vulva or vaginal area of a person.

Section 3 HOURS OF OPERATION; RESTRICTIONS; PROHIBITIONS

- (A) Hours of operation.

- (1) No person licensed as a health massage therapist shall massage or treat any person, or engage in the business or profession of health massage therapy, before 7:00 a.m. or after 10:00 p.m., prevailing time.
 - (2) No person licensed under the provisions of this chapter shall admit customers or prospective customers, or remain open for business, or allow, permit or condone the administration of health massage therapy or treatment of any person upon the premises before 7:00 a.m. or after 10:00 p.m., prevailing time, except upon written order by a licensed physician, osteopath, chiropractor, registered physical therapist or legal guardian, such order being dated, and a true copy of such order being in the possession of the licensee before administration of any health massage therapy or treatment. A violation of this subsection shall be grounds for revocation of any license issued under this chapter.
 - (3) No person in charge of managing a health massage therapy business upon the premises shall allow, permit or condone any health massage therapy or treatment of any person before 7:00 a.m. or after 10:00 p.m., prevailing time.
- (B) Patronage of health massage therapy establishment by minors.
- (1) No person licensed as a health massage therapist shall administer health massage therapy or treat any person under the age of 18 upon the licensed premises, except upon written order by a licensed physician, osteopath, chiropractor, registered physical therapist, or legal guardian, such order being dated and in the possession of the health massage therapist giving the health massage therapy or treatment. A violation of this division shall be grounds for revocation of any license issued under this chapter.
 - (2) No person licensed as a health massage therapist under the provisions of this chapter shall allow, permit or condone the administration of health massage therapy or treatment of any person under the age of 18 upon the licensed premises, except upon written order by a licensed physician, osteopath, chiropractor, registered physical therapist or legal guardian, such order being dated, and a true copy of such order being in the possession of the licensee before administration of any health massage therapy or treatment. A violation of this division shall be grounds for revocation of any license issued under this chapter.
- (C) Massage of private parts for hire prohibited. It shall be unlawful for any person to massage or to offer to massage the private parts of another for hire.

Section 4 EXEMPTIONS

- (A) The practice of health massage therapy shall not include and is distinct from the practice of medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry. Requirement of this chapter shall have no application to the following:
- (1) Physicians, surgeons, chiropractors, osteopaths, physical therapists or podiatrists duly licensed to practice in this state.
 - (2) Registered or licensed practical nurses working under the supervision of a licensed physician, chiropractor, osteopath or podiatrist.
 - (3) Athletic directors or trainers who are affiliated with an approved educational institution or professional sports team, and whose work is limited to athletic team members.
 - (4) Licensed cosmetologist, barbers or beauty culturists who do not give, or hold themselves out to give, massages other than are customarily given in such establishments, solely for the purposes of beautification.
- (B) Other persons not duly qualified and licensed as a health massage therapist under this chapter, whether employed by physicians, chiropractors, osteopaths, podiatrists, or not, may not render health massage therapy.

Section 5 LICENSING OF HEALTH MASSAGE THERAPIST

- (A) No person shall engage in the business or profession of health massage therapy unless such person shall have first applied for and received the privilege license provided by this section.
- (B) Applicants are required to have a minimum of 150 hours of professional training in health massage therapy, to be obtained through an institute or school of health massage, therapy, college level courses, workshops and seminars, or apprenticeship with a licensed health massage therapist. On and after January 1, 1994, all applicants shall be required to have a minimum of 325 hours of professional training in health massage therapy. On and after January 1, 1995, all applicants shall be required to have a minimum of 500 hours of professional training or in lieu thereof a certificate of completion from a course of study from a nationally recognized or accredited institution. These requirements shall apply to all applicants and no applicant shall be exempted therefrom except as expressly provided in Section 4 of this chapter. Until the applicant has attained 500 hours of training or in lieu thereof a certificate of completion from a course of study from a nationally recognized or accredited institution as hereinabove set forth, each applicant shall respectively submit on or before January 1, 1994 and January 1, 1995 a written, notarized certification stating the number of hours of completed professional health massage therapy training. Such training, whether from one or several

sources, must meet the following criteria:

- (1) At least 50% of the total training, provided by a licensed health massage therapist to be in hands-on health massage therapy techniques, massage treatment principles and theory;
 - (2) At least 20% of total training to be in the area of anatomy and physiology; and
 - (3) The balance of the total training to be in other health-related areas, such as hydrotherapy, movement and nutrition.
 - (4) Licensee shall provide evidence of having completed at least 8 hours of continuing training or workshops annually in order to renew the license.
- (C) The application for the license required by this section shall be upon a form approved by the Town Manager and shall be filed with the Town Clerk. Such application shall be given under oath and shall contain the following information:
- (1) The name, age and residence of the applicant;
 - (2) A complete statement of the previous business or occupation of the applicant for the two years immediately preceding the date of application;
 - (3) The date and place of applicant's birth and the residence address or addresses of the applicant for the three years immediately preceding the date of application;
 - (4) A complete statement of all convictions of the applicant for any offense involving sexual misconduct, including G.S. ¶ 14-177 through G.S. 14-202.1, Article 26 (offenses against public morality and decency), and G.S. ¶ 14-203 through 14-208, Article 27 (prostitution), or of any violation of any law or ordinance of any governmental unit concerning or related to the business or profession of massage;
 - (5) 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 or health massage therapy;
 - (6) Applicant must furnish the following proof of training:
 - (a) A diploma or certificate of graduation from an institute or school of massage whose curriculum is approved by the American Massage Therapy Association; or

- (b) A diploma, transcript, or certificate of completion from a school or other institution of learning, or a workshop/seminar leader, which indicates the subjects studied and number of hours of hands-on experience and classroom hours taken.
- (7) In addition to subdivisions (6)(a) or (b), all applicants shall have submitted two written notarized recommendations from two members in good standing with the American Massage Therapy Association or from two persons or instructors from other schools or institutions of learning, attesting to the qualifications and good standing of any such applicant for a license hereunder; and
- (8) The town reserves the right to request submission of any additional information deemed necessary to process any such application.
- (D) Upon payment of the application fee, as set out in Section 12 herein, and upon submission of all the information required by the application under this chapter, the Town Clerk shall transmit a copy of the application to the chief of police for an investigative report which shall contain a background investigation regarding any convictions for crimes or sexual misconduct or other offenses against public morality. The chief of police shall report the results of the investigation to the Town Clerk within a reasonable time, not to exceed 30 days. Unless it appears that any such applicant is under the age of 18 years, has deliberately falsified the application, has had a previously issued license for engaging in the business or profession of health massage therapy revoked, or the record of such applicant reveals a conviction as set out in division (C)(4), a license shall be granted immediately by the Town Clerk if all requirements described herein are met.

Section 6 LICENSING OF HEALTH MASSAGE THERAPY ESTABLISHMENTS

- (A) No person, partnership, corporation or association shall operated a health massage therapy 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 Town Manager and shall be filed with the Town Clerk. Every such application shall be made under oath and shall contain the following information:
 - (1) If the applicant is a person, the name and residence of such person. If the applicant is a partnership, corporation or association, the name and residence address of all persons having any legal or beneficial interest in such applicant;
 - (2) The address of the premises where the health massage therapy

establishment shall be located;

- (3) A complete statement of all convictions of any person whose name is required to be given in subdivision (1) above for any offense as previously set out in Section 5 (C)(4);
 - (4) A complete statement of any revocation, by any governmental unit, of any license to operate a health massage therapy establishment or to engage in the business or profession of massage held by any person whose name is required to be given in division (B)(1) above;
 - (5) The name and address of any massage establishment or other establishment owned or operated by any person whose name is required to be given in division (B)(1) above wherein the business or profession of massage is carried on;
 - (6) A description of any business to be operated on the same premises or on adjoining premises owned or controlled by the applicant; and
 - (7) The town reserves the right to request submission of any additional information deemed necessary to process any such application.
- (C) The Town Clerk shall transmit a copy of the application to the chief of police for an investigative report; to the building inspector to determine compliance with all building regulations and ordinances; to the planning department to determine compliance with all zoning regulations and ordinances; and to the fire department to determine compliance with any law relating to fire protection. The chief of police, fire department, building inspector, and the planning department shall, within a reasonable time, not to exceed 30 days, report the results of their investigation to the Town Clerk.
- (D) An application in proper form, accompanied by all reports required by this section and by the application fee as required by Section 12 herein, shall be submitted to the Town Clerk who shall approve such application if the Town Clerk determines that:
- (1) The application contains no misstatement of fact;
 - (2) The applicant, and any person having legal or beneficial ownership interest in the applicant, is over the age of 18 years and has not been convicted of any crime involving sexual misconduct, as set out in Section 5 (C)(4);
 - (3) The applicant conforms to all requirements of applicable zoning building and fire prevention codes; and

- (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 or health massage therapy or a license to operate a health massage therapy establishment or massage business revoked.

Section 7 DENIAL OF LICENSE

Any person denied a license pursuant to the provisions in Section 5 and/or Section 6 may appeal to the Town Board in writing stating reasons why the license should be granted. The Town Board may grant or deny the license. The Town Board may also review any determination of the granting or denial of a license on its own motion. All licenses issued hereunder are nontransferable.

Section 8 FACILITIES REQUIRED FOR A HEALTH MASSAGE THERAPY ESTABLISHMENT

No license to conduct a health massage therapy establishment shall be issued unless an inspection discloses that the establishment complies with all of the minimum requirements of the North Carolina State Building Code and all the state laws and regulations relating to health and sanitation governing health-related facilities. The town reserves the right to impose additional conditions for reasons of public health and safety.

Section 9 REVOCAION

- (A) Notice and hearing. No license under this chapter shall be revoked until after due notice and a hearing shall have been held before the Town Manager to determine just cause for such revocation. Notice of such hearing shall be given in writing and served at least ten days prior to the date of the hearing thereon. The notice shall state the grounds of the complaint against the holder of such license, and shall designate the time and place where such hearing will be held.
- (B) Method of notice. Said notice shall be served upon the license holder by delivering the same personally or by leaving such notice at the place of business or residence of the license holder in the custody of a person of suitable age and discretion. In the event the license holder cannot be found and the service of such notice cannot be otherwise made in the manner herein provided, a copy of such notice shall be mailed, registered or certified, postage fully prepaid, addressed to the license holder at his or her place of business or residence at least ten days prior to the date of such hearing.
- (C) Revocation of health massage therapist license. Grounds for revocation shall not be limited to, but shall include:
 - (1) the licensee has violated any provision of this chapter;

- (2) The licensee has been convicted of a crime involving sexual misconduct, or has become a habitual criminal offender;
 - (3) The licensee is guilty of fraudulent, false, misleading or deceptive advertising, including the use of the term "massage" to describe, promote or advertise any type of business activity or service offered which is expressly not health massage therapy as herein defined;
 - (4) The licensee has fraudulently obtained a license pursuant to the provisions of this chapter.
 - (5) The licensee allows the use of his or her license by an unlicensed person; or
 - (6) The licensee is addicted to the habitual use of alcohol, narcotics or other drugs, to such an extent as to incapacitate such person for the safe and normal performance of his or her professional duties.
- (D) Revocation of health massage therapy establishment license. Grounds for revocation shall not be limited to, but shall include:
- (1) The licensee has violated any provision of this chapter;
 - (2) The licensee, or any agent of the licensee, employs or permits to be on the premises of the applicant's health massage therapy establishment any person who has not been issued the privilege license required by the chapter;
 - (3) The licensee, or the legal or beneficial owner of any interest in the licensee is convicted of any crime involving sexual misconduct;
 - (4) The licensee is guilty of fraudulent, false, misleading or deceptive advertising, including the use of the term "health massage" or health massage therapy to describe, promote or advertise any type of business activity or service offered which is expressly not health massage therapy as defined by this chapter, or has otherwise fraudulently engaged in the business or profession of health massage therapy; or
 - (5) The licensee violates any zoning, building or fire prevention ordinance or other local, state or federal laws.
- (E) Any person whose license is revoked hereunder may appeal to the Town Board in writing stating why the license should not be revoked. The Town Board after due notice shall conduct a hearing, at which hearing the Town Board shall affirm the revocation or authorize the re-issuance of any such license.

Section 10 POSTING OF LICENSE

- (A) Every health massage therapist licensed under Section 5 shall post the license required by this chapter in his or her work area at all times.
- (B) Every person, corporation, partnership or association licensed under Section 6 herein as a health massage therapy establishment shall display such license in a prominent place at all times.

Section 11 LOCATION

All health massage therapy or treatment shall be administered in a health massage therapy establishment duly licensed under this chapter and in a location permitted under the zoning code.

Section 12 APPLICATION FEES

- (A) The application fee for a privilege license for a health massage therapist as set out in Section 5 herein shall be \$15.
- (B) The application fee for a privilege license for a health massage therapist establishment pursuant to Section 6 herein shall be \$25.

Section 13 ANNUAL PRIVILEGE LICENSE

The licenses required under this chapter are annual privilege licenses. Such licenses shall be due and payable in the same manner as prescribed for other privilege licenses issued by the building inspections department pursuant to Chapter 11 of the Town Code.

- (A) Health massage therapist
privilege license: \$25
- (B) Health massage therapist
establishment privilege
license: \$50

Adopted by the Board of Commissioners on April 21, 1993