

Secs. 12-34—12-60. Reserved.

**ARTICLE II. MASSAGE THERAPY
CENTERS AND RELATED BUSINESSES**

Sec. 12-61. Purpose of article.

To protect 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 massage therapist and for the operation of carrying on the businesses, trades or professions commonly known as massage therapy centers, massage parlors, health salons, physical culture studios or similar establishments wherein massage or physical manipulation of the human body is carried on or practiced. The provisions of this article shall not apply to the practice of a profession by persons who are licensed, certified, or registered under other laws of this state and who are performing services within their authorized scope of practice.

(Code 1990, § 10-56)

Sec. 12-62. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business or profession of massage means the massage or treatment of any person for a fee or in expectation of a gratuity from the person massaged.

Massage means the manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device.

Massage business means any establishment or business wherein massage is practiced, including establishments commonly known as massage therapy centers, health clubs, physical culture studios and massage studios.

Massage therapist means any person engaged in the business or profession of massage who holds himself or herself out to others as a massage and body work therapist who adopts or uses any title or description including "massage ther-

apist," "body work therapist," "masseur," "masseuse," "massagist," "somatic practitioner," "body therapist," "structural integrator," or any derivation of those terms that implies this practice.

(Code 1990, § 10-57)

Cross reference—Definitions generally, § 1-2.

Sec. 12-63. Licensing of massage therapy business operators.

(a) No person shall operate a massage business unless such person 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 address 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 massage business shall be located or where the applicant resides;
- (3) A complete statement of all convictions of any person whose name is required to be given in subsection (b)(1) of this section for any felony, or prostitution or any violation of any law relative to prostitution;
- (4) A complete statement of any revocation, by any governmental unit, of any license to operate a massage business or to engage in the business or profession of massage held by any person whose name is required to be given in subsection (b)(1) of this section;
- (5) A complete statement of any conviction of any person whose name is required to be given in subsection (b)(1) of this section, for violation of any statute, law, ordinance or regulation of any government concerning the operation of a massage business or the business or profession of massage;

- (6) 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 subsection (b)(1) of this section;
- (7) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.

(c) The town clerk shall transmit a copy of the application to the police department for an investigative report, to the building inspector to determine compliance with all zoning and building regulations and ordinances, and to the fire department to determine compliance with any law relating to the fire protection. The police and fire departments and the building inspector shall, within a reasonable time, not to exceed 45 days, report the results of their examinations to the town clerk.

(d) An application in proper form, accompanied by all reports required by this section, shall be submitted to the board of commissioners, which shall approve such application if the board of commissioners determines that:

- (1) The application contains no misstatement of fact.
- (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, G.S. 14-177—14-202.1, and G.S. 14-203—14-208, or of this chapter, or of any federal statutes 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 in the last ten years.
- (3) The applicant conforms to all requirements of applicable zoning, building and fire prevention codes, if applicable.
- (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 by the board of commissioners, and upon receipt of the required license fee, the town tax collector shall issue a privilege license to the applicant.

(f) A license issued pursuant to this section shall be revoked by action of the board of commissioners if the board of commissioners determines that:

- (1) The licensee has violated any provision of this article.
- (2) The licensee, or any agent of the licensee, employs any person practicing the business or profession of massage who has not been issued the privilege license required by section 12-64, or whose license under section 12-64 has been revoked.
- (3) The licensee, or the legal or beneficial owner of any interest in the licensee is convicted of any crime involving sexual misconduct including, but not limited to, G.S. 14-177—14-202.4, and G.S. 14-203—14-208 in the last ten years.
- (4) Any employee of the licensee is convicted of any felony in connection with his employment, or is convicted of any crime involving sexual misconduct including, but not limited to, G.S. 14-177—14-202.4 and G.S. 14-203—14-208 or of this chapter.
- (5) The licensee violates any zoning, building or fire prevention ordinances or chapter 4 of this Code.

(g) A license issued pursuant to this article is void if the licensee moves or ceases operating a massage business.
(Code 1990, § 10-58)

Sec. 12-64. Licensing of massage therapists.

(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. Upon receipt of

the appropriate information as listed below, the collector of revenue shall issue a privilege license to the applicant.

(b) All applicants must show proof of a state license from the state board of massage and body work.

(c) If an applicant is to work under the supervision of a licensed physician, applicant must show scope of services from the licensed physician.

(d) If an applicant is not to work under the supervision of a licensed physician, applicant must adhere to following hours of operation:

- (1) No person licensed as a massage therapist under this section shall massage or treat any person, or engage in the business or profession of massage, before 8:00 a.m. or after 12:00 midnight, prevailing time.
- (2) No person licensed under this section shall admit customers or prospective customers, or remain open for business, or allow, permit or condone any massage or treatment of any person before 8:00 a.m. or after 12:00 midnight, prevailing time.
- (3) No person in charge of managing a massage business shall allow, permit or condone any massage or treatment of any person before 8:00 a.m. or after 12:00 midnight, prevailing time.

(Code 1990, § 10-59)

Sec. 12-65. Employer to use only licensed employees.

No person licensed under this article shall allow or permit any person to massage or treat any person unless the person giving such massage or treatment has complied with all requirements of licensing under this article. Violation of this article shall be grounds for revocation of the license issued to such violator pursuant to this article.

(Code 1990, § 10-60)

Sec. 12-66. Posting of license.

(a) Every massage therapist shall post the license required by this article in his work area or on his person.

(b) Every person, corporation, partnership, or association licensed under this article hereof shall display such license in a prominent place or on his person.

(Code 1990, § 10-61)

Sec. 12-67. Notice and hearing.

Before the board of commissioners revokes a license issued pursuant to this article, or if the board of commissioners determines reasonable grounds exist to deny an application for a license pursuant to this article, the board of commissioners shall 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 commissioners, with or without legal counsel, at a stated time and place, for the purpose of presenting any evidence relevant to such revocation or denial, and for the purpose of hearing all evidence submitted and examining or cross examining any person providing such evidence.

(Code 1990, § 10-62)

Sec. 12-68. Patronage of massage therapy business by minors and employment of minors.

(a) No person licensed as a massage therapist under this article shall massage or treat any person under the age of 18 years except by persons who are licensed, certified, or registered under other laws of this state and who are performing services within their authorized scope of practice. A violation of this subsection shall be grounds for revocation of any license issued to such violator pursuant to this article.

(b) No person licensed under this article shall allow, permit or condone the massage or treatment of any person under the age of 18 years except by persons who are licensed, certified, or registered under other laws of this state and who are performing services within their authorized

scope of practice. A violation of this subsection shall be grounds for revocation of any license issued to such violator pursuant to this article.

(c) No person, corporation, partnership or association licensed pursuant to this article shall employ any person under the age of 18 years in the operation of a massage business.
(Code 1990, § 10-65)

Sec. 12-69. Privilege license annual.

The licenses required under this article are annual privilege licenses. Such licenses shall be due and payable in the same manner as prescribed for other privilege licenses issued by the town pursuant to the license and privilege tax ordinance of the town.
(Code 1990, § 10-66)

Sec. 12-70. Massage of private parts for hire.

It shall be unlawful for any person to massage or to offer to massage the private parts of another for hire. The term "massage," as used in this section, means the manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device. The term "private parts" means the penis, scrotum, mons veneris, vulva or vaginal area. The provisions of this section shall not apply to licensed medical practitioners, osteopaths or chiropractors, or persons operating at their direction, in connection with the practice of medicine, chiropractic or osteopathy.
(Code 1990, § 10-67)

Secs. 12-71—12-100. Reserved.

**ARTICLE III. PEDDLERS AND
ITINERANT MERCHANTS***

Sec. 12-101. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Articles of merchandising means anything of value offered for sale to the public by any person.

Itinerant merchant means any person who shall expose for sale, either on the street or in a building occupied in whole or in part for such purpose, any goods, wares or articles of merchandise, not being a regular merchant of the town, and shall include any person who exposes his goods for sale in a flea market, a parking lot or an unused portion of a building or from any fixed location within the town.

Peddler means any person engaged in the act of peddling of articles of merchandise.

Peddling means the sale or offering for sale from house to house by any persons from a cart, truck, automobile or other vehicle operated over and upon the streets and highways any articles of merchandise and shall include, without limitation, fresh fruits and vegetables, farm products, household medicines, remedies and other articles.
(Code 1990, § 10-91)

Cross reference—Definitions generally, § 1-2.

Sec. 12-102. License required.

It shall be unlawful for any peddler or itinerant merchant to peddle any articles of merchandise within the town until such person shall have first secured a permit to peddle the same and such itinerant merchant or peddler shall keep and produce and exhibit the permit to any official of the town upon demand.
(Code 1990, § 10-92)

**Cross references*—Streets, sidewalks and other public places, ch. 36; traffic and motor vehicles regulations to apply to pushcarts, bicycles and animal-driven vehicles, § 42-6.

State law reference—Authority to regulate solicitation campaigns and itinerant merchants, G.S. 160A-178.