

MAR 12 1979

ORDINANCE NO. 87A-1

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN THE CODE OF THE COUNTY OF JAMES CITY BY AMENDING CHAPTER 9, LICENSES, BY ADDING AND AMENDING AND REORDAINING THE FOLLOWING SECTIONS, TO WIT: ARTICLE V, MASSAGE PARLORS, SECTION 9-114, DEFINITIONS; SECTION 9-115, PERMIT--REQUIRED; SECTION 9-116, SAME--EXEMPTIONS FROM REQUIREMENT; SECTION 9-117, SAME--APPLICATION; SECTION 9-118, SAME--REFERRAL OF APPLICATION TO CERTAIN AMDINISTRATIVE OFFICERS; SECTION 9-119, SAME--ISSUANCE; SECTION 9-120, DISPLAY OF PERMIT; SECTION 9-120.1, PERMIT FEE; SECTION 9-121, REQUIRED FACILITIES; MAINTENANCE; SECTION 9-121.1, OPERATING REQUIREMENTS; SECTION 9-122, HOURS OF OPERATION; SECTION 9-123, HEALTH REQUIREMENTS FOR OPERATORS AND TECHNICIANS; SECTION 9-123.1, RIGHT OF INSPECTION; SECTION 9-123.2, KEEPING OF RECORDS; SECTION 9-123.3, ALCOHOLIC BEVERAGES PROHIBITED; SECTION 9-125, WHERE MASSAGE PERMITTED; SECTION 9-126, RESPONSIBILITIES OF PERMITTEE; SECTION 9-127, REVOCATION AND SUSPENSION OF PERMITS GENERALLY; SECTION 9-128, PERMIT NONTRANSFERABLE; GROUNDS FOR REVOCATION OF PERMIT; SECTION 9-129, PENALTY; SECTION 9-129.1, SEVERABILITY.

BE IT ORDAINED by the Board of Supervisors of James City County that the Code of the County of James City be and the same is, hereby, amended and reordained by amending Chapter 9, Licenses, by adding and amending and reordaining the following sections, to wit: Article V, Massage Parlors, Section 9-114, Definitions; Section 9-115, Permit--Required; Section 9-116, Same--Exemptions from Requirement; Section 9-117, Same--Application; Section 9-118, Same--Referral of Application to Certain Administrative Officers; Section 9-119, Same--Issuance; Section 9-120, Display of Permit; Section 9-120.1, Permit Fee; Section 9-121, Required Facilities; Maintenance; Section 9-121.1, Operating Requirements; Section 9-122, Hours of Operation; Section 9-123, Health Requirements for Operators and Technicians; Section 9-123.3, Alcoholic Beverages Prohibited; Section 9-125, Where Massage Permitted; Section 9-126, Responsibilities of Permittee; Section 9-127 Revocation and Suspension of Permits Generally; Section 9-128, Permit Nontransferable; Grounds for Revocation of Permit; Section 9-129, Penalty; Section 9-129.1, Severability.

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MASSAGE PARLORS

ARTICLE V.

Section 9-114. Definitions.

For the purposes of this chapter, the following words and terms shall have the meanings respectively ascribed to them by this section:

Director. The director of the Colonial Health District, Williamsburg-James City County-York County, Virginia, or his designee.

Massage. A method of treating the external parts of the body for medical, hygienic, 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.

Massage parlor. Any establishment having a fixed place of business where any person engages in, carries on, or permits to be engaged in, or carried on, any business of giving of any kind or character of massage.

Massage technician. Any person, male or female, who administers to another person for any form of consideration a massage.

Patron. Any person 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.

Person. Any individual, co-partnership, firm, association, joint stock company, corporation, or combination of individuals of whatever form or character.

Permittee. The operator of a massage establishment that has a valid permit issued under this article.

Sexual or genital area. The genitals, pubic area, anus or perineum of any person, or the vulva or breasts of a female.

Applicant. Any person applying for a permit under this ordinance and must include all partners, including limited partners, of a partnership applicant, all officers and directors of a corporate applicant and any stockholder holding more than five percent of the stock of a corporate applicant.

Employee. Any person, other than a massage technician, who renders any service in connection with the operation of a massage parlor and receives compensation from the operator of the business or patrons.

Approved school. Any school recognized by or approved by or affiliated with the American Massage and Therapy Association, Inc.

Section 9-115. Permit -- Required.

It shall be unlawful for any person to engage in, conduct or carry on or to permit to be engaged in, conducted or carried on, in or upon any premises within the county, the business of a massage parlor or to render or permit to be rendered massage services at a location removed from a massage establishment within the county without a permit issued pursuant to the provisions of this chapter, or, a permit having been issued, while such permit shall have been suspended or revoked.

Section 9-116. Same -- Exemptions from requirement.

The requirements of section 9-115 shall not apply to a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by

the state, or to a licensed nurse acting under direct prescription and direction of any such physician, surgeon, chiropractor or osteopath. The requirements of Section 9-115 shall not apply to barber shops or beauty parlors in which massage is given to the scalp, the face, the neck or the shoulders only.

Section 9-117. Same -- Application.

Any person desiring a permit to operate a massage parlor or establishment shall make application to the director who shall refer all such applications to the county administrator for investigation. An application to obtain a permit to operate a massage establishment shall be accompanied by a receipt showing payment to the county treasurer the nonrefundable filing fee of one thousand dollars, such sum to cover the costs of investigations, inspections and regulation by the county administrator, and the director.

The application for a permit to operate a massage parlor shall set forth the exact nature of the massage to be administered and the proposed place of business and facilities therefor. The application shall include a list of the massage technicians presently employed or to be employed indicating, name, age, height, weight, sex, qualification and experience, and a medical history of any contagious or communicable diseases presently had and being treated or cured within the previous three years.

In addition to the foregoing, any applicant for a permit shall furnish the following information:

- (a) Name and address
- (b) Written proof of age.
- (c) All residential addresses for the past three years.
- (d) Height, weight, color of eyes and hair, and sex.
- (e) A complete set of fingerprints and a portrait photograph of the applicant, giving a clear view of the applicant's face.
- (f) The business, occupation or employment of the applicant for five years immediately preceding the date of application.
- (g) Previous experience of the applicant as a massage parlor operator or a massage technician.
- (h) All criminal convictions, other than traffic offenses, and places of conviction of the applicant and all massage technicians to be employed.
- (i) A complete medical history of the person who shall be directly responsible for the operation and management of the massage parlor including a list of all contagious or communicable diseases had by the said manager within the past three years, and the name of person, with address, giving treatment.
- (j) If the applicant is a corporation, or a partner in a partnership is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation.
- (k) Written proof of graduation from an approved school by the person who shall be directly responsible for the operation and management of the massage parlor and for each massage technician employed therein.

(l) Authorization for the county, its agents, and employees to seek information and conduct an investigation into the truth of the statements set forth in the application.

(m) 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 county.

Section 9-118. Same -- Referral of application to certain administrative officers.

The director shall refer such application to the county administrator within five days of its receipt. The county administrator shall forward copies of such application to the administrative offices of the county charged with the enforcement of the Building, Plumbing, Electric and Fire Prevention Codes. A copy of such application shall also be referred to the Sheriff's office. Each department shall, within ten days inspect the premises proposed to be operated as a massage parlor and make written recommendations to the county administrator concerning compliance with the codes that they administer.

Section 9-119. Same -- Issuance.

Within twenty-one days of the application, the director shall issue or re-issue in case the permit has expired or been revoked, the permit if he shall find:

(a) The premises to be used or constructed meet the Building, Plumbing, Electric and Fire Prevention Codes of the county as reported by the administrative officers of the county;

(b) All persons who shall perform as massage technicians have undergone a physical examination by a licensed physician within the past thirty days and have furnished to the directors a certificate signed by the examining physician stating that the person examined is either free from any contagious or communicable diseases or incapable of communicating any of such disease to others.

(c) The operation, as proposed by the applicant, if permitted, would comply with all of the requirements of this chapter and all other applicable laws.

(d) The applicant and the manager or other person principally in charge of the operation of the business has not been convicted of any crime involving dishonesty, fraud, or deceit, unless such conviction occurred at least five years prior to the date of the application.

(e) The manager or other person principally in charge of the operation of the business and each massage technician have successfully completed a resident course of study or learning of not less than one thousand hours of study from an approved school where the theory, method, profession, or work of massage is taught.

(f) The applicant has not made any false, misleading, or fraudulent statement of fact in the permit application or in any document required by the county in conjunction therewith.

Every massage parlor permit issued pursuant to this chapter will terminate at the expiration of one year from the date of its issuance, unless sooner suspended or revoked.

Section 9-120. Display of permit.

Every person to whom a permit shall have been granted shall display such permit in a conspicuous place, so that such may be readily seen by anyone entering the premises where the massage is given. Such permittee shall also display in a conspicuous place a list of all massage technicians employed in the massage parlor.

Section 9-120.1. Permit fee.

The license fee for a massage parlor shall be one thousand dollars per year which amount is not transferable to another person or subject to proration for part of the license year.

Section 9-121. Required facilities; maintenance.

Each massage parlor shall have, and maintain in a clean, sanitary and workable condition:

(a) Adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.

(b) Washbasins provided with both hot and cold running water installed in either the toilet room or a vestibule immediately adjacent thereto. Washbasins shall be provided with soap and dispenser with sanitary towels.

(c) Closed cabinets used for the storage of clean linen, towels, and other materials used in connection with administering massages. All soiled linens, towels, and other materials shall be kept in properly covered containers or cabinets which containers or cabinets shall be kept separate from the clean storage areas.

(d) Adequate bathing, dressing, locker and toilet facilities provided for patrons. A minimum of one tub or shower, one dressing room containing a separate locker capable of being locked for each patron, one toilet and one washbasin shall be provided by each massage parlor. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each sex. 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 half of the water closets for male patrons after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

(e) If male and female patrons are to be served simultaneously at the establishment, separate bathing, massage, and dressing rooms provided for each sex.

(f) A service sink for custodial services provided either in the massage parlor quarters or on the floor of the building on which the quarters are located.

(g) Massage tables, bathtubs, shower stalls, and steam or bath areas with nonporous surfaces which may be readily disinfected.

Section 9-121.1. Operating requirements.

(a) Every portion of the massage parlor, including appliances and apparatus, shall be clean and operated in a sanitary condition.

(b) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

(c) All employees and massage technicians shall be clean and wear clean, nontransparent outer garments.

(d) Clean and sanitary towels and linens shall be provided for each patron of the massage parlor. No common use of towels or linens shall be permitted.

(e) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and other physical facilities shall be kept in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms or cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.

(f) Oils, creams, lotions, or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.

(g) Eating in the massage work areas shall not be permitted. Animals, except for seeing eye dogs, shall not be permitted in the massage work areas.

(h) Each massage technician shall wash his or her hands in hot running water using proper soap or disinfectant before administering a massage to each patron.

Section 9-122. Hours of operating.

No massage parlor shall remain open for business nor shall any massage be administered to any patron of any such business between the hours of 10:00 P.M. and 6:00 A.M. of the following morning.

Section 9-123. Health requirements for operators and technicians.

(a) No massage parlor operator or massage technician shall be permitted to give massage or come in contact with a patron of any massage parlor unless such operator or massage technician shall be free of any contagious or communicable disease. The director or his designee, may, for cause, require that an operator or massage technician not be allowed to give massage unless and until any such person provide him with a certificate from a licensed medical doctor that such person has been examined within the previous ten days and found to be free of all contagious or communicable disease.

(b) No massage technician shall knowingly serve any patron infected with fungus or other skin infection; nor shall service be performed on any patron exhibiting skin inflammation or eruptions; provided, however, that a duly licensed physician may certify that any such patron may be safely served prescribing the conditions thereof.

(c) All massage technicians shall undergo a physical examination for contagious and communicable diseases and shall furnish to the director a certificate based upon said examination, issued within thirty days thereof and signed by a physician duly licensed by the state, stating that the person examined is either free from any contagious or communicable disease

or incapable of communicating any of such disease to others prior to the commencement of employment and at least once every year thereafter.

Section 9-123.1. Right of Inspection.

The sheriff's department and the department of public health shall, from time to time, at least twice a year, make an inspection of each massage parlor granted a permit under the provisions of this article for the purposes of determining whether the provisions of this article are complied with. 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 access to the premises or to hinder such officer in any manner.

Section 9-123.2. Keeping of records.

Every person who operates a massage parlor and every massage technician employed therein shall at all times keep an appointment book in which the name and address of each and every patron shall be entered, together with the time, date, service provided, and price charged.

Section 9-123.3. Alcoholic beverages prohibited.

No person shall sell, give, dispense, provide or keep or cause to be sold, given, dispensed or kept, any alcoholic beverage on the premises of any massage business.

Section 9-124. Massage of certain portions of body prohibited; exposure of certain portions of body prohibited.

(a) It shall be unlawful for any massage technician or any other person in a massage parlor to place his or her hands upon, to touch with any part of his or her body, to fondle in any manner, or massage, the sexual or genital area, or any portion thereof, of any other person.

(b) It shall be unlawful for any massage technician or any other person employed in a massage parlor to expose his or her sexual or genital area, or portion thereof, to any other person.

(c) It shall be unlawful for any massage technician or any other person employed in a massage parlor, to fail to conceal with a fully opaque covering the sexual or genital area of his or her body while in the presence of any patron of said massage parlor.

(d) It shall be unlawful for any female massage technician or other female person employed in a massage parlor to fail to conceal with a fully opaque covering the nude breast or breasts of said female massage technician or other female person while in the presence of any patron of such massage parlor.

(e) It shall be unlawful for any person owning, operating or managing a massage parlor, knowingly to cause, allow or permit in or about such massage parlor, any agent, employee or other person under his control or supervision to perform such acts prohibited in subsections (a), (b), (c) (d) or (e) of this section.

Section 9-125. Where massage permitted.

Each massage parlor shall have one area designated for massage; or in the event massage be administered to both sexes during the same times, such massage parlor shall have two separate massage areas - one being for male and one being for female patrons. All massages shall be administered in said massage area or areas as the case may be, and no massages shall be administered in private rooms or behind closed doors. The massage area or areas as the case may be, shall be open to inspection by the director, or his designee, and other law enforcement officers of the county during business hours.

Section 9-126. Responsibilities of permittee.

No person granted a massage parlor permit pursuant to this chapter shall operate under any name or at any location not specified in his permit. The permittee shall be responsible for maintaining the premises in accordance with the requirements of this chapter and for the conduct of all agents and employees in complying with the requirements of this chapter. No permittee shall permit in his premises activity or behavior prohibited by the laws of the United States, state of this county, relating to gambling, prostitution, sodomy, adultery, fornication, lewd and lascivious cohabitation or other laws relating to obscenity or moral turpitude.

Section 9-127. Revocation and suspension of permits generally.

The director may revoke or suspend for a term, as hereinafter provided, any permit issued pursuant to this chapter upon the violation of any of the rules, requirements or restrictions of this chapter. No permit, however, shall be revoked until after a hearing shall have been held by the director to determine just cause of such revocation. At such hearing the permittee shall be given the opportunity to present evidence and argument against revocation or suspension. Notice of such hearing shall be given the permittee by mailing, at least five days prior to such hearing, a written statement setting forth the grounds of the complaint, addressed to the permittee at the address on his permit. The decision of the director shall be final. After such hearing, the director may suspend such permit for a term not to exceed sixty days, may revoke the permit or may dismiss the complaint.

Section 9-128. Permit nontransferable; grounds for revocation of permit.

The sale or transfer of the interest of the permittee in a massage parlor shall render null and void any permit issued pursuant to this chapter. The enlargement or alteration of the structure at which the massage parlor is operated shall be deemed to revoke such permit, ipso facto, unless prior approval shall have been obtained from the director. The hiring and use of massage technicians not listed with the director shall be deemed to revoke such permit, ipso facto, unless the information required by section 9-117 shall have been first filed with the director.



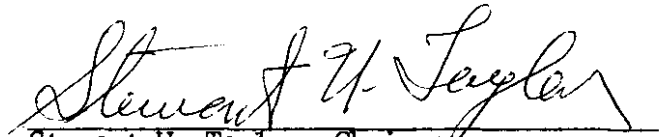
Section 9-129. Penalty.

Any person, firm or corporation who shall violate any of the provisions of this chapter shall, in addition to being subject to the provisions of sections 9-127 and 9-128 be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars or by confinement in jail for a period not exceeding six months, either or both.

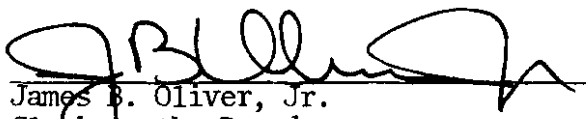
Section 9-129.1. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this article, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this article or any part thereof.

This ordinance shall be in full force and effect from the date of its adoption.

  
Stewart U. Taylor, Chairman  
Board of Supervisors

ATTEST:

  
James B. Oliver, Jr.  
Clerk to the Board

Adopted by the Board of Supervisors, James City County, Virginia, on this 12th day of March, 1979.