

CHAPTER 14.3
MASSAGE PERMITS

§ 14.3-10.	Declaration of policy
§ 14.3-11.	Definitions
§ 14.3-12.	Exceptions
§ 14.3-13.	Zoning requirements
§ 14.3-14.	Permits--Required
§ 14.3-15.	Application--Fees
§ 14.3-16.	Contents of application
§ 14.3-17.	Nontransferable
§ 14.3-18.	Investigation of applicant
§ 14.3-19.	Issuance
§ 14.3-20.	Business license requirement
§ 14.3-21.	Renewal
§ 14.3-22.	Display
§ 14.3-23.	Revocation of suspension
§ 14.3-24.	Appeal
§ 14.3-25.	Name of business
§ 14.3-26.	Facility requirements
§ 14.3-27.	Display of list of services and costs
§ 14.3-28.	Inspections - Establishment
§ 14.3-29.	Employees
§ 14.3-30.	Attire
§ 14.3-31.	Violations and penalties

Sec. 14.3-10. Declaration of policy

It is hereby declared that the business of operating massage establishments and performing massage services is a business affecting the public health, safety and general welfare. (Ord. No. 896, § 1; Ord. No. 1646, §6)

Sec. 14.3-11. Definitions

As used in this chapter:

(a) **Massage** means any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations , other than for purposes of sexual arousal. (Ord. No. 1673, §1)

(b) **Massage establishment** means (1) any establishment having a place of business where any person, firm, association or corporation engages in or carries on, or permits to be engaged in or carried on, any of the activities mentioned in

subdivision (a) or (2) any establishment engaging in or carrying on, or permitting to be conducted or carried on, any business of giving Turkish, Russian, vapor, sweat, electric, salt, magnetic or other kind or character of baths other than tub baths.

(c) **Massage technician** means any person who, for any consideration whatsoever, engages in the practice of massage.

(d) **Employee** means any and all persons, other than the massage technician, who renders any service to the permittee, who receives compensation directly from the permittee, and who has no physical contact with the customer or client. (Ord. No. 1673, §1)

(e) **Person** means any individual, partnership, corporation, association or other group, however organized. (Ord. No. 896, § 2.)

(f) **Operator** means any person who owns or operates a massage establishment.

(g) **Sheriff** means the Solano County Sheriff or the sheriff's authorized representative.
(Ord. No. 1646, §6)

Sec. 14.3-12. Exceptions

(a) The provisions of this chapter shall not be construed as applying to any physician, surgeon, chiropractor, osteopath, nurse or technician working under the supervision of a physician, surgeon, chiropractor or osteopath licensed to practice their respective professions in the state; nor shall it apply to any treatment administered in good faith in the course of the practice of any healing art or profession by any person licensed to practice such art or profession under the Business and Professions Code of the state.

(b) The provisions of this chapter shall not be construed as applying to any barber or cosmetologist licensed under the Business and Professions Code performing barbering or cosmetology services. (Ord. No. 896, § 3.)

Sec. 14.3-13. Zoning requirements

A massage establishment which is created and operated in accordance with the provisions of this chapter shall be located only in those portions of the county wherein permitted by applicable zoning. (Ord. No. 896, § 4.)

Sec. 14.3-14. Permits--Required

(a) **Massage technician permit.**

(1) No person shall act as a massage technician without first obtaining a valid massage technician permit from the sheriff.

(2) No operator shall employ a person as a massage technician without first verifying that the technician holds a valid massage technician permit. Every operator shall maintain legible copies of the permits of all massage technicians employed at the massage establishment, which shall be available for inspection by the sheriff during regular business hours (Ord. No. 896, §5)

(b) **Validity.** All permits issued pursuant to this Chapter shall be valid for a period of one year from the date of issuance. (Ord. No. 896, §5)
(Ord. No. 1646, §6; Ord. No. 1673, §2))

Sec. 14.3-15. Application--Fees

Persons desiring to obtain a massage technician permit shall make application to the sheriff and pay a nonrefundable fee, made payable to the county in an amount set by resolution by the board of supervisors, to defray in part the cost of investigation by the sheriff. A massage technician permit does not authorize the operation of a massage establishment. (Ord. No. 896, § 16; Ord. No. 1646, §6; Ord. No. 1673, §3)

Sec. 14.3-16. Contents of Application

(a) All applicants for a technician permit shall submit the following information:

(1) The full name, and present residence address and telephone number of applicant.

(2) Two previous residence addresses immediately prior to the present address of applicant, and the dates of residence at each.

(3) Applicant's birth date, place of birth, proof of age over 18 years, height, weight, color of eyes and hair, citizenship, social security number and drivers license number.

(4) Applicant's employment history for the past five (5) years.

(5) Applicant's license and/or permit history, including whether such person in previously operating in this or another city or state under license has had license revoked or suspended, and the reason, and the business activity or occupation subsequent to such action of suspension or revocation.

(6) Applicant's criminal history.

(7) A recent photograph, passport size (2x2).

(8) A certificate of graduation from a licensed school of massage which offers a course of at least seventy hours, with a curriculum that includes, but is not limited to, massage theory and techniques, anatomy and physiology, hygiene and

professional ethics where the entire course shall have been taught under the direct supervision of a licensed instructor. (Ord. No. 896, '17.; Ord. No. 1673, §4)

(9) All applicants shall submit to being fingerprinted by the sheriff for purposes of background check, and shall pay the direct cost of fingerprint processing. Said cost shall be in addition to the application fee reference in section 14.3-5. (Ord. No. 1646, §6; Ord. No. 1673, §4)

Sec. 14.3-17. Nontransferable

Permits issued pursuant to this chapter are not transferable. (Ord. No. 896, § 14.)

Sec. 14.3-18. Investigation of applicant- Repealed

(Ord. No. 1673, §5)

Sec. 14.3-19. Issuance

The sheriff shall review the application and shall issue the permit, unless it finds any of the following to be true:

(a) That any of the information on the application has been knowingly falsified with intent to deceive.

(b) That the applicant has been convicted of:

(1) An offense involving conduct which requires registration pursuant to section 290 of the Penal Code.

(2) A violation of sections 266i, 315, 316, 318 or subdivision (b) of section 647 of the Penal Code.

(3) Any felony offense involving the sale of a controlled substance specified in section 11054, 11055, 11056, 11057 or 11058 of the Health and Safety Code. (Ord. No. 1646, §4)

(4) Any other offense which, in the sole discretion of the sheriff would disqualify the applicant from obtaining a permit. (Ord. No. 1673, §6)

Sec. 14.3-20. Business license requirement

All massage technicians operating as independent contractors must obtain a business license as required by Chapter 14.

(Ord. No. 896, § 20; Ord No. 1464, §6; Ord. No. 1673, §7)

Sec. 14.3-21. Renewal

(a) All permits issued under this chapter must be renewed annually prior to the expiration of the permit. A renewal fee set by resolution of the board of supervisors shall be submitted by the applicant to the sheriff, along with a renewal application form, adopted by the sheriff.

(b) If a permit is not renewed before it lapses, the permit applicant shall be assessed a delinquent fee of double the amount of the renewal fee.

(c) If a permit is not renewed within sixty (60) days after the expiration date, the licensee shall be required to file a new application and submit application fees, as required by this chapter. The application shall be processed as a new permit, and subject to all applicable reviews required by this chapter.

(Ord. No. 896, § 6; Ord. No. 1168, §2; Ord. No. 1646, §3; Ord. No. 1673, §8)

Sec. 14.3-22. Display

All permits issued pursuant to this chapter, shall be displayed in a conspicuous place so that they may be readily seen by persons entering a massage establishment. A technician without a fixed place of business must be able to produce a valid permit for review upon request by any customer at the time of rendering services, or any law enforcement agency. (Ord. No. 896, § 6; Ord No. 1646, §6; Ord. No. 1673, §9)

Sec. 14.3-23. Revocation or suspension

(a) A massage permit may be revoked for any of the following reasons:

(1) The holder of the permit has violated any of the provisions of this chapter.

(2) The holder of the permit has been convicted of any offense set forth in subsection (b) of section 14.3-19.

(3) For other good cause as determined in the discretion of the Sheriff.

(b) Except as provided in subsection (c), no permit shall be revoked or suspended until after a hearing has been held before the sheriff to determine whether there is sufficient cause for such revocation or suspension, except as provided in subdivision (b) below. Notice of such hearing shall be given at least ten (10) days prior to the date of the hearing. The notice shall state the grounds of the complaint against the holder of such permit, and shall state the time and place where such hearing will be held. The hearing shall be held within thirty (30) days, or as soon thereafter as agreed to by the permit holder and the sheriff. Upon revocation, the permit shall be surrendered to the sheriff. (Ord. No. 896, § 21)

(c) A permit may be suspended or revoked without notice if, in the discretion of the sheriff, it is determined that continuance of the permit impairs the public health, safety or welfare. In such a circumstance, the sheriff will provide notice of

revocation or suspension and provide an opportunity for a hearing at the request of the permit holder within five (5) business days of the suspension or revocation. A permit holder must request a hearing within ten (10) days of service of notification by the sheriff or as soon thereafter as agreed to by the permit holder and the sheriff. A hearing requested by the applicant as set forth in this section shall be conducted by the sheriff within five (5) business days after receipt of such request for hearing. Upon revocation, the permit shall be surrendered to the sheriff.

(d) Notice shall be effective immediately upon personal delivery to the permit holder, or by leaving such notice at the place of business or residence of the permit holder, in the custody of a person eighteen years of age, or older mailing, postage prepaid, to the permit holder at his/her place of business or residence, in which case service shall be effective five (5) calendar days after delivery or mailing, whichever is later.

(Ord. No. 1646, §6; Ord. No. 1673, §10)

Sec. 14.3-24. Appeal

Any person aggrieved by a decision of the sheriff may appeal that decision by filing written notice of such appeal and the grounds with the clerk of the board of supervisors within fifteen (15) days after the notice of decision of the sheriff is given by mail or personal delivery. Upon receipt of the appeal, the matter shall be set to be heard by the board of supervisors within sixty days of receipt of the appeal, unless the applicant and the county stipulate to extend the hearing date. No rights shall be exercised under any permit until the board of supervisors renders its decision.

(Ord. No. 896, § 20; Ord. No. 1646, §6)

Sec. 14.3-25. Name of business

No person subject to the provisions of this chapter shall operate under any name or conduct business under any designation not specified in the permit.

(Ord. No. 896, § 9; Ord. No. 1646, §6)

Sec. 14.3-26. Facility requirements

All massage establishments shall comply with the following requirements:

(a) A recognizable and legible sign shall be posted at the main entrance identifying the premises as a massage establishment.

(b) Lighting shall be provided in accordance with the Building Code and, in addition, at least ten (10) foot candles of light as measured thirty (30) inches above the floor shall be provided in each room or enclosure where massage services are performed on individuals.

(c) Mechanical ventilation shall be provided for each enclosure or room.

(d) Bathing, dressing, locker and toilet facilities shall be provided for patrons. If male and female patrons are to be served simultaneously, separate massage rooms, bathing, dressing, locker and toilet facilities shall be provided for male and female patrons. A minimum of one locking type cabinet shall be provided for each patron to be served.

(e) All walls, ceilings, floors, pools, showers, bath tubs, steam rooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Surfaces of walls and floors shall be smooth and shall be constructed of materials which are impervious to water. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bath tubs shall be thoroughly cleaned and sanitized after each use. Whenever necessary in order to insure proper maintenance, floor drains shall be installed.

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

(g) No service described herein as "massage" shall be carried on in any room or area in any massage establishment which is fitted with a door capable of being locked; except, that doors leading to the outside of a building may be locked for security purposes, providing there is no violation of state or county safety rules and regulations. No room or area in any massage establishment shall be fitted with any device commonly referred to as a "one-way mirror."

(h) Compliance with all applicable building codes.
(Ord. No. 896, § 7; Ord. No. 1646, §6; Ord. No. 1673, §11)

Sec. 14.3-27. Display of list of services and costs

Every operator of a massage establishment shall cause to be displayed, in a conspicuous place readily seen by persons entering the premises where services are being performed, a list of services and the cost of such services provided by the massage establishment or operator.

(Ord. No. 896, § 10; Ord. No. 1646, §6; Ord. No. 1673, §12)

Sec. 14.3-28. Inspections - Establishment

(a) Every person operating a massage establishment shall permit those officials charged with the enforcement of the provisions of this chapter to make inspections at any time the establishment is open for business, in order to verify compliance with the provisions of this chapter.

(b) No holder of a permit shall allow communication devices to be installed or used in any manner on the premises so as to interfere with or hinder inspections by law enforcement officials. (Ord. No. 896, §10; Ord. No. 1646, §6)

Sec. 14.3-29. Employees

(a) Every operator of a massage establishment, and any employer of persons purporting to act as massage technicians, shall have the responsibility to insure that each person employed as a massage technician, whether as an employee or an independent contractor, has a valid permit pursuant to this chapter.

(b) Every operator of a massage establishment shall exercise close supervision over the acts of massage technicians or other persons employed on the premises. The acts of massage technicians or other employees, when in violation of this chapter or any condition of a permit issued hereunder, may constitute grounds for revocation or suspension of the operator's business license and/or the technician's permit and business license as applicable.

(Ord. No. 896, § 12; Ord. No. 1646, §6; Ord. No. 1673, §13)

Sec. 14.3-30. Attire

(a) All massage technicians and other employees of a massage establishment shall, at all times during the performance of their duties, wear clean, non-transparent outer garments.

(b) All massage technicians shall, at all times while engaged in the activities described as massage, or any employment related to massage, wear affixed to their out garment a legible name tag, upon which is ascribed their full name as it appears on the permit.

(Ord. No. 1673, §14)

Sec. 14.3-31. Violations and penalties

(a) Any violation of any of the provisions of this chapter is a misdemeanor and is punishable by a fine not to exceed one thousand dollars, or by imprisonment in the county jail for a period not to exceed six months, or both.

(b) In the alternative, the district attorney may make application to the superior court for an injunction or any other appropriate order restraining conduct wherein any person carries on or attempts to carry on a massage establishment, or wherein any person attempts to act as a massage technician in violation of this chapter. This section shall be cumulative, and shall not prohibit the enforcement of any other applicable law.

(Ord. No. 1673, §15)

(c) The proceedings under this section shall be governed by chapter 3 (commencing with section 525) of Title 7 of Part 2 of the Code of Civil Procedure; except, that no undertaking shall be required and the district attorney shall not be required to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

(b) Any massage establishment operated, conducted or maintained contrary to the provisions of this chapter is unlawful and constitutes a public nuisance. (Ord. No. 896, §22; Ord. No. 1392, §1; Ord. No. 1646, §6)