

ORDINANCE NO. 3111

AN ORDINANCE to amend Title 11 by repealing, in its entirety, Chapter 4, and to further amend Title 11 by adding thereto a new chapter to be designated 4.1, all of The Code of the City of Alexandria, Virginia, 1981, as amended; which Title 11 relates to HEALTH, ENVIRONMENTAL AND SANITARY REGULATIONS, which repealed Chapter 4 formerly related to MASSAGE PARLORS AND MASSAGE TECHNICIANS and which new Chapter 4.1 relates to MASSAGE REGULATIONS.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Title 11 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended by repealing Chapter 4 in its entirety.

Section 2. That Title 11 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended by adding a new chapter thereto designated Chapter 4.1, Massage Regulations, to read as follows:

CHAPTER 4.1

Massage Regulations

ARTICLE 1

Massage, Generally

Sec. 11-4-1. Definitions.

For purposes of this chapter, the following phrases and words shall have the meaning assigned below, except in those instances when the context clearly indicates a different meaning.

(1) **Approved program.** The course of training at an approved school offered to and required to be successfully completed by any person who is permitted to be a massage therapist in the city. The program must consist of at least the following:

(a) An organized program of theoretical study and training in an educational institution or school approved by the state (or the District of Columbia or the territory of the United States) in which the school is located; and

(b) The curriculum must have consisted of a program of at least 500 in-class hours, which included study and practical training specifically designed to provide knowledge and skills necessary for the practice of massage therapy; and

(c) The content of the program must include, at a minimum, the subjects of anatomy, physiology, theory and practice of massage therapy including Swedish massage, hydrotherapy, contraindications, first-aid, business practice and ethics.

(2) **Approved school.** An approved school is a school or institution of learning currently accepting and complying with the standards and policies of the American Massage Therapy Association or any other comparable school, which school the police chief finds to be in compliance with those standards and policies; provided that any school which is approved shall require the successful completion of an approved program.

(3) **Director.** The director of public health of the city or his duly authorized representative.

(4) **Massage.** A method of treating the external parts of the human body for comfort or the general well-being of the body, consisting of rubbing, stroking, kneading, tapping or vibrating with hand or any instrument.

(5) **Massage establishment.** Any establishment where massages are administered solely by massage therapists, or which holds itself out to the public as a place where massages are administered solely by massage therapists; there shall be no massage of any type administered at a massage establishment by a massage technician or by anyone else who is not a massage therapist in good standing.

(6) **Massage parlor.** Any establishment where massages are administered, or which holds itself out to the public as a place where massages are administered, by other than massage therapists. The term "massage parlor" shall include but shall not be limited to massage parlors, health clubs, health spas, Turkish bathhouses and similar type businesses, whether such business is a public or private facility. This definition shall not be construed to include:

a. any establishment providing facilities for and offering instruction in controlled exercise, weight lifting, calisthenics, and general physical fitness and which offers massages to its members or patrons only as an incidental service, constituting no more than five (5) percent of the total gross business income derived at each business location of such establishment;

b. any hospital, nursing home, medical clinic or the office of a duly licensed physician, surgeon, physical therapist, chiropractor or osteopath; or

c. any barbershop or beauty salon in which massages are administered only to the scalp, the face, the neck or the shoulders;

d. the office of a trigger point myotherapist who provides treatment only to those individuals referred in writing by a physician, dentist, chiropractor, osteopath or podiatrist.

e. any personal grooming establishment permitted pursuant to section 11-7-1, et seq., of this code; provided, there shall be absolutely no cross-sexual full body massages permitted, and provided further that the administering of full body massages shall be but an incidental service constituting no more than five percent (5%) of the total gross business income derived from each business location of such personal grooming establishment.

(7) **Massage technician.** Any person who administers a massage to another person at a massage parlor. This definition shall not be construed to include a physician, surgeon, chiropractor, physical therapist or nurse duly licensed by the Commonwealth of Virginia.

(8) **Massage therapist.** Any person who administers a massage to another at a massage establishment, who shall have successfully completed an approved program at, and is certified by, an approved school of massage.

(9) **Police chief.** The chief of police of the city or his duly authorized representative.

(10) **Sexual or genital parts.** The genitals, pubic area, anus or perineum of any person, or the vulva or breasts of a female.

ARTICLE 2

Massage Technicians; Massage Parlors

Sec. 11-4-2. Business licenses, health cards, permits required-- display.

(a) It shall be unlawful for any person to establish, maintain, or operate a massage parlor in the city without first having applied for and purchased an appropriate business license pursuant to title 9, chapter 1, article B of this code.

(b) It shall be unlawful for any person to establish, maintain or operate a massage parlor in the city without a valid nonsuspended massage parlor permit issued pursuant to this chapter.

(c) It shall be unlawful for any person to perform the services of a massage technician at a massage parlor in the city without a valid nonsuspended public health card issued pursuant to this chapter.

(d) It shall be unlawful for any person to perform the services of a massage technician at a massage parlor in the city without a valid massage technician permit issued pursuant to this chapter.

(e) It shall be unlawful for any person to perform the services of a massage technician at any location outside of the physical confines of a duly licensed massage parlor.

(f)(1) Every person to whom a massage parlor permit shall have been granted shall display said permit in a conspicuous place in the massage parlor so that it may be readily seen by persons entering the premises.

(2) Every person to whom a massage technician permit shall have been granted shall, while in a massage parlor, carry on his or her person or display in a conspicuous place in the massage parlor the massage technician permit.

Sec. 11-4-3. Examination of massage technicians; issuance of public health card; duty of employer to keep records.

(a) All persons who desire to perform the services of massage technician at a massage parlor shall first undergo a physical examination for contagious and communicable diseases, which shall include a recognized blood test for syphilis, a culture for gonorrhea, a chest X-ray which is to be made and interpreted by a trained radiologist acceptable to the director, and such other laboratory tests, done in a laboratory acceptable to the director, as may be necessitated by the above examination, and shall furnish to the director a certificate based upon and issued within 30 days of the examination, signed by a physician duly licensed by the Commonwealth of Virginia and stating that the person examined is either free from any contagious or communicable disease or incapable of communicating any of such diseases to others. The persons shall undergo the physical examination referred to above and submit to the director the certificate required herein within five (5) days of the commencement of their employment and at least once every 12 months thereafter.

(b) The director or his duly authorized representative, when he has cause to believe that the massage technician is capable of communicating any contagious disease to others, may at any time require an immediate physical examination of the person.

(c) Upon presentation to and approval by the director of the certificate required herein, the director shall issue a health card to the applicant, containing, among other items, the name of the holder, the date of expiration and a statement that the holder has complied with the provisions of this section. The director

shall refuse to issue a card if the applicant has either failed to furnish the certificate required herein or is not free from any contagious or communicable disease.

(d) The employer of any such person shall require all such persons to undergo the examination and obtain the certificates provided by this section, shall register at the place of employment the name and date of employment of each employee, and shall have the health cards and registration of all employees available for the director at all reasonable times.

Sec. 11-4-4. Massage technician permits--application; application fee; renewal; renewal fee.

(a) Any person desiring a permit to perform the services of massage technician at a massage parlor in the city shall make the application to the director. Each massage technician permit application shall be accompanied by an investigation fee of \$25, payable to the director of finance. Each application shall contain the name, address, telephone number, last previous address, date of birth, place of birth, height, weight, current and last previous employment of the applicant and the name, address and telephone number of the place where the applicant proposes to be employed or to engage in such business in the city. If, following the issuance of a massage technician permit, any permittee is employed at a place different from that listed on the application, he or she shall immediately notify the director in writing of the new location at which he or she is employed. In addition, the application shall include a sworn statement as to whether or not the applicant, within five (5) years prior to the date of the application, has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any provision included in sections 18.2-344 through 18.2-361 and sections 18.2-372 through 18.2-387, Code of Virginia (1950), as amended, which laws relate to sexual offenses, prostitution, obscenity, etc., or any laws which relate to massage parlors, or on a charge of violating a similar law in any other jurisdiction.

(b) The application shall state thereon that "it is unlawful for any person to make a false statement on this application and discovery of a false statement shall constitute sufficient grounds, in and of itself, for denial of an application or revocation of a permit, or for the imposition of a fine or imprisonment or both."

(c) Each applicant shall be photographed twice and have his or her fingerprints taken, which photographs and fingerprints shall constitute part of the application.

(d) The issued permit shall be valid for a period of one (1) year, and it may be renewed for additional one- (1) year periods

upon the filing of a new application and the payment of a \$25 investigation fee. All provisions of this article shall apply to renewals in the same manner as they apply to applications.

(e) It shall be unlawful for the applicant to make a false statement on any application filed under this section.

Sec. 11-4-5. Same--investigation of applicant; grounds for denial of application; issuance.

(a) Upon receipt of the application and fee as provided for in the preceding section, the director shall request the chief of police to make or cause to be made a thorough investigation of the criminal record of the applicant. The result of this investigation shall be submitted to the director within 30 days of the request.

(b) The director shall deny any application for a massage technician permit under this chapter after notice and hearing if the director finds that within five (5) years prior to date of the application, the applicant has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any provision included in sections 18.2-344 through 18.2-361 and sections 18.2-372 through 18.2-387, Code of Virginia (1950), as amended, which laws relate to sexual offenses, prostitution, obscenity, etc., or any laws which relate to massage parlors, or on a charge of violating a similar law in any other jurisdiction. The making of a false statement on the application as provided for in section 11-4-4 of this code, shall also be grounds for denial of this application. Notice of the hearing before the director for denial of this application shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. The notice shall be mailed by certified mail to the applicant's last known residential address at least five (5) days prior to the date set for hearing.

(c) If the director shall be satisfied from such investigation that the application conforms with the provisions of this chapter, he shall issue, or cause to be issued, a massage technician permit to the applicant.

Sec. 11-4-6. Same--revocation after notice and hearing.

Any massage technician permit granted under this chapter shall be revoked by the director after notice and hearing if within five (5) years prior to the date of the application or subsequent to the issuance of the permit the permittee has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any provision included in sections 18.2-344 through 18.2-361 and sections 18.2-372 through 18.2-387, Code of Virginia (1950), as amended, which laws relate to sexual offenses, prostitution, obscenity, etc., or any laws which relate to massage parlors, or on a charge of violating a similar law in any other

jurisdiction. Discovery by the director of a false statement on the application as provided for in section 11-4-4 of this code shall also be grounds for revocation of the permit. Notice of the hearing before the director for revocation of the permit shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. The notice shall be mailed by certified mail to the applicant's last known residential address at least five (5) days prior to the date set for hearing.

Sec. 11-4-7. Massage parlor permit--application; application fee; renewal; renewal fee.

(a) Any person desiring a massage parlor permit to establish, maintain or operate a massage parlor in the city shall make application to the director. Each massage parlor permit application shall be accompanied by an investigation fee of \$50 payable to the director of finance. (Any person who has paid a \$250 investigation fee as previously required by this section shall be granted a refund of \$200 upon application for a refund to the director of finance. When any such refund is in order, the director of finance is hereby authorized and directed to make the refund to any such person.) Each renewal application shall be accompanied by an investigation fee of \$25, payable to the director of finance. Each application shall contain the name, address, telephone number, last previous address, date of birth, height, weight, current and last previous employment of the applicant, and the name, address and telephone number of the place where the applicant proposes to operate, maintain or establish a massage parlor in the city.

(b) In addition, applications shall include a sworn statement as to whether or not the applicant (if the applicant is a partnership or association, any partner or member thereof, or if the applicant is a corporation, any officer, director or manager, thereof or shareholder owning 10 percent or more of its capital stock), within five (5) years prior to the date of the application, has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any provision included in sections 18-2-344 through 18.2-361 and sections 18.2-372 through 18.2-387, Code of Virginia (1950) as amended, which laws relate to sexual offenses, prostitution, obscenity, etc., or any laws which relate to massage parlors, or on a charge of violating a similar law in any other jurisdiction.

(c) The application shall state thereon that "it is unlawful for any person to make a false statement on this application and discovery of a false statement shall constitute sufficient grounds, in and of itself, for denial of an application or revocation of a permit, or for the imposition of a fine or imprisonment or both."

(d) Each applicant shall be photographed twice and have his or her fingerprints taken, which photographs and fingerprints shall constitute part of the application.

(e) The issued permit shall be valid for a period of one (1) year, and it may be renewed for additional one- (1) year periods upon the filing of a new application and the payment of a \$50 investigation fee. All provisions of this article shall apply to renewals in the same manner as they apply to applications.

(f) It shall be unlawful for the applicant to make a false statement on any application filed under this section.

(g) Every person owning, operating or managing a massage parlor shall post a copy of this ordinance in a conspicuous place in the massage parlor so that it may be readily seen by persons entering the premises.

Sec. 11-4-3. Same--investigation of application; grounds for denial of application.

(a) Upon receipt of the application and fee as provided for in the preceding section, the director shall request the police chief to make or cause to be made a thorough investigation of the criminal record of the applicant (if the applicant is a partnership or association, all partners or members thereof, or if the applicant is a corporation, all officers, directors and managers thereof and all shareholders owning 10 percent or more of its capital stock). The result of this investigation shall be submitted to the director within 30 days of the request.

(b) The director shall deny any application for a massage parlor permit under this chapter after notice and hearing if the director finds that within five (5) years prior to the date of such application the applicant (if the applicant is a partnership or association, any partner or member thereof, or if the applicant is a corporation, any officer, director, or manager thereof or shareholder owning 10 percent of the capital stock) has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any provision included in sections 18.2-344 through 18.2-361 and sections 18.2-372 through 18.2-387, Code of Virginia (1950), as amended, which laws relate to sexual offenses, prostitution, obscenity, etc., or laws which relate to massage parlors, or on a charge of violating a similar law in any other jurisdiction. The making of a false statement on the application as provided for in section 11-4-7 of this code shall also be grounds for denial of this application. Notice of the hearing before the director for denial of this application shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. The notice shall be mailed by certified mail to the applicant's last known business address at least five (5) days prior to the date set for hearing,

Sec. 11-4-9. Same--issuance; investigation of premises.

The director, before issuing any massage parlor permit, shall cause an investigation to be made of the premises named and described in the application for a massage parlor permit under this chapter for the purpose of determining whether the massage parlor complies with the provisions of this chapter. If the director shall be satisfied from such investigation that the massage parlor is in conformity with the provisions of this chapter (and if the application has not been denied pursuant to section 11-4-8 of this chapter), he shall issue, or cause to be issued, a massage parlor permit authorizing the establishment, maintenance and operation of a massage parlor. If the director shall not be so satisfied, he shall deny the application and advise the applicant in writing of the denial setting forth the reasons therefor. Every massage parlor permit issued pursuant to this chapter shall terminate at the expiration of one (1) year from the date of its issuance, unless sooner suspended.

Sec. 11-4-10. Same--revocation.

Any massage parlor permit granted under this chapter shall be revoked by the director after notice and hearing if within five (5) years prior to the date of issuance or subsequent to the issuance of the permit the permittee (if the permittee is a partnership or association, any partner or member thereof, or if the permittee is a corporation, any officer, director or manager thereof or shareholder owning 10 percent or more of its capital stock) has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any provision included in sections 18.2-344 through 18.2-361 and sections 18.2-372 through 18.2-387, Code of Virginia (1950), as amended, which laws relate to sexual offenses, prostitution, obscenity, etc., or laws which relate to massage parlors, or on a charge of violating a similar law in any other jurisdiction. The making of a false statement on the application as provided for in section 11-4-7 of this code shall also be grounds for denial of this application. Notice of the hearing before the director for denial of this application shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. The notice shall be mailed by certified mail to applicant's last known business address at least five (5) days prior to the date set for hearing.

Sec. 11-4-11. Appeal of denial of application or revocation of massage parlor or massage technician permit.

Any applicant or permittee aggrieved by the actions of the director in the denial of an application for massage parlor permit or massage technician permit, or in the decision of the director with reference to the revocation of a massage parlor permit or massage technician permit pursuant to sections 11-4-5, 11-4-6, 11-4-8 or 11-4-10 of this chapter shall have the right of appeal to the city council. The appeal shall be taken by filing with the clerk of the city council, within 10 days after notice

of the action complained of has been mailed to the person's last known business address if pertaining to a massage technician, by certified mail, a written statement setting forth fully the grounds for appeal. The clerk of the city council shall forthwith notify the city manager, who shall schedule a public hearing before the city council and shall give notice of the hearing to the appellant. The decision and order of the city council on the appeal shall be final and conclusive.

Sec. 11-4-12. Right of entry of police chief or director.

The police chief or the director is hereby authorized to enter, examine and survey any premises in the city for which a massage parlor permit has been issued pursuant to this chapter during business hours to enforce the provisions of this chapter. Such inspections shall be made in a reasonable manner during business hours. Every holder of a massage parlor permit shall be deemed, by virtue of the application for and utilization of such permit, to have consented and agreed to all of the provisions of this article, including, but not by way of limitation, the right of entry and inspection set forth in this section.

Sec. 11-4-13. Suspension of massage parlor permit--effect of order.

If the director finds that the massage parlor for which the massage parlor permit was issued does not conform to the standards set forth in sections 11-4-16 and 11-4-18 or to the requirements set forth in section 11-4-21, or with the prohibitions set forth in section 11-4-17, or the permittee has refused to the director or police chief the right to enter the premises to enforce the provisions of this chapter, he may enter an order for the immediate suspension of the massage parlor permit. If the director has entered an order for the suspension of a massage parlor permit for failure to conform to the standards set forth in sections 11-4-16 and 11-4-18, or for the permittee's refusal of the director's or police chief's right to enter the premises to enforce the provisions of this chapter, the suspension shall continue until such time as the director finds that the reason for the suspension no longer exists. If the director has entered an order for a suspension due to the failure of the permittee to comply with the requirements set forth in section 11-4-21 or upon the director's finding that the permittee has failed to comply with the prohibitions set forth in section 11-4-17, the suspension shall continue until such time as the director has convened a hearing on the matter. A copy of the order shall be sent to the permittee at his place of business by certified mail, which order shall set forth the reasons for the suspension and, if the suspension is the result of a finding by the director that the permittee has not conformed to the provisions set forth in sections 11-4-21 or 11-4-17, said order shall specify the time and place of a hearing before the director which shall be not more

than five (5) days after the date of the order. No person shall operate a massage parlor when subject to an order of suspension.

Sec. 11-4-14. Same--hearing on suspension.

Any permittee aggrieved by the action of the director in the suspension of a massage parlor permit pursuant to section 11-4-13 of this code shall have the right of a hearing before the director. Such hearing shall be requested by filing with the director within 10 days after notice of the action complained of has been mailed to the permittee's last known business address by certified mail a written statement requesting a hearing. The director shall forthwith schedule a hearing. The director shall forthwith schedule a hearing and shall give notice of the hearing to the permittee. Following the hearing, the director shall mail to the permittee's last known business address by certified mail a copy of his final decision.

Sec. 11-4-15. Same--reinstatement.

The director may reinstate a suspended massage parlor permit when no fact or condition exists which would otherwise warrant the director to refuse to grant a massage parlor permit under the terms of this chapter.

Sec. 11-4-16. Minimum standards for massage parlors.

No massage parlor shall be operated, established or maintained in the city that does not comply with the following standards:

(1) The premises shall have 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.

(2) Closed cabinets shall be provided and 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.

(3) Clean linen and towels shall be provided for each massage patron. No common use of towels or linens shall be permitted.

(4) All massage tables, bathtubs, shower stalls, steam or bath areas and floors shall have surfaces which may be readily disinfected.

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

(6) Adequate bathing, dressing, locker and toilet facilities shall be provided for the patrons to be served at any given time. In the event male and female patrons are to be served simultaneously, separate bathing, dressing, locker, toilet and massage room facilities shall be provided. Separate toilet and lavatory facilities shall be maintained for personnel.

(7) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. 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. Bathtubs and showers shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.

(8) The premises shall be equipped with a service sink for custodial services.

(9) Eating in the massage work areas shall not be permitted.

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

(11) No massage parlor shall employ a massage technician who does not comply with the provisions of sections 11-4-2(b), 11-4-2(c) and 11-4-18.

Sec. 11-4-17. Prohibiting administration of massages by a person of the opposite sex.

(a) It shall be unlawful for any massage technician to administer a massage to any person of the opposite sex in a massage parlor.

(b) It shall be unlawful for any establishment owner, or operator to operate a massage parlor or any similar type business where any physical contact or massage with the recipient of the service provided by said establishment is provided by a person of the opposite sex.

Sec. 11-4-18. Individual health requirements for massage technicians.

No massage technician shall administer massages at a massage parlor who does not comply with the following individual health requirements:

(1) No massage technician shall administer a massage if such massage technician knows or should know that he or she is not free of any contagious or communicable disease.

(2) No massage technician shall administer a massage to a patron exhibiting any skin fungus, skin infection, skin inflammation, or skin eruption; provided that a physician duly licensed by the Commonwealth of Virginia may certify that such person may be safely massaged prescribing the conditions thereof.

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

Sec. 11-4-19. Suspension of health card; reinstatement.

If the director finds that the massage technician does not comply with the individual health requirements set forth in section 11-4-18, he may enter an order for the immediate suspension of the health card until such time as he finds that the reason for the suspension no longer exists. A copy of the order shall be sent to the massage technician at his or her place of business by certified mail, which order shall set forth the reasons for the suspension. No person shall perform the services of a massage technician at a massage parlor when subject to an order of suspension. The director may reinstate a suspended health card when he is satisfied from his own investigation that the massage technician complies with the applicable provisions of this chapter.

Sec. 11-4-20. Specific unlawful acts.

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

(b) It shall be unlawful for any person, in a massage parlor, to expose his or her sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person, in a massage parlor, to expose the sexual or genital parts, or any portion thereof, of any other person.

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

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

Sec. 11-4-21. Hours of operation; record of transactions.

(a) No massage parlor may operate at any time other than between the hours of 9:00 a.m. through 5:00 p.m., Monday through Friday.

(b) Each massage parlor shall keep a record of transactions which shall set forth the name and address of each customer, the services rendered and the amount of money paid for such services. It shall be the responsibility of the establishment to verify that all such information recorded is accurate and complete. The record shall be open to the inspection of any police officer of the city or the director during the hours of operation set forth in this section.

Sec. 11-4-22. Penalty for violation of article.

Any person violating any of the provisions of this article shall, upon conviction thereof, be guilty of a misdemeanor and shall be punished by a fine not exceeding \$500 or by imprisonment not exceeding six (6) months or by both. Violations of the provisions of this article may also be restrained, prohibited or enjoined by appropriate action or proceeding. Provided, however, that no provision of this article shall apply to police officers or agents or officials of the United States, Commonwealth of Virginia, City of Alexandria or any agency thereof or their agents while in performance of official duties relating to any violation of this article or of any law of the United States, the Commonwealth of Virginia or the City of Alexandria.

ARTICLE 3

Massage Therapists; Massage Establishment

Sec. 11-4-23. Business licenses, health cards, permits required--display.

(a) It shall be unlawful for any person to establish, maintain, or operate a massage establishment in the city without first having applied for and purchased an appropriate business license pursuant to title 9, chapter 1, article C of this code.

(b) It shall be unlawful for any person to establish, maintain or operate a massage establishment in the city without a valid nonsuspended massage establishment permit issued pursuant to this chapter.

(c) It shall be unlawful for any person to perform the services of a massage therapist at a massage establishment in the city without a valid nonsuspended public health card issued pursuant to this chapter.

(d) It shall be unlawful for any person to perform the services of a massage therapist at a massage establishment in the city without a valid massage therapist permit issued pursuant to this chapter.

(e) It shall be unlawful for any person to perform the services of a massage therapist at any location outside the physical confines of a duly licensed massage establishment.

(f)(1) Every person to whom a massage establishment permit shall have been granted shall display said permit in a conspicuous place in the massage establishment so that it may be readily seen by persons entering the premises.

(2) Every person to whom a massage therapist permit shall have been granted shall, while in a massage establishment, carry on his or her person or display in a conspicuous place in the establishment the massage therapist permit.

Sec. 11-4-24. Examination of massage therapists; issuance of public health cards.

All persons who desire to perform the services of a massage therapist shall first undergo a physical examination conducted by a physician licensed by the Commonwealth of Virginia, and shall present to the director a certificate from that physician stating that the applicant for a health card, within thirty (30) days prior to the application, has been examined and found free of any identifiable disease which would create a substantial medical risk for the massage subject.

Upon presentation to and approval by the director of the certificate required herein, the director shall issue a health card to the applicant containing, among other things, the name and residence address of the holder, the date of expiration of the health card 12 months after issuance, and a statement that the holder has complied with this section. The issuance of such public health card shall not authorize the holder to perform any massage therapy unless and until a massage therapist permit shall have been issued.

Sec. 11-4-25. Massage therapists permits; application; application fee; renewal; renewal fee.

(a) Any person desiring a permit to perform the services of a massage therapist shall make application to the director. Each such application shall be accompanied by an application fee of \$25.00, payable to the director of finance. Each application shall contain the name, address, telephone number, date of birth, place of birth, height, weight, and the name, address and telephone number of the place where the applicant proposes to conduct his or her massage therapy business in the city. If, following the issuance of a massage therapists permit, any permittee is employed at or functions at a place different from that listed on the application, the permittee shall immediately notify the director in writing of the new location at which he or she is operating as a massage therapist.

(b) The application shall state thereon that "it is unlawful for any person to make a false statement on this application and discovery of a false statement shall constitute sufficient grounds, in and of itself, for denial of an application or revocation of a permit, or for the imposition of a fine or imprisonment or both."

(c) Each applicant shall be photographed and fingerprinted and his or her photograph and fingerprints shall constitute part of the application.

(d) The issued permit shall be valid for a period of one (1) year, and it may be renewed for additional one- (1) year periods upon the filing of a new application and the payment of a \$25 fee. All provisions of this article shall apply to renewals in the same manner as they apply to original applications, with the exception of subsection (c), above, and subsection (f), below. The initial permit shall contain a serial number as determined by the director; each and every renewal application and renewal permit shall continue to utilize the identical serial number so long as that permittee continues to be permitted to perform massage therapy in the city.

(e) It shall be unlawful for the applicant to make a false statement on any application filed pursuant to this section.

(f) Each applicant has the absolute burden of proving to the police chief that he or she has successfully completed an approved program at an approved school, and no permit shall be issued by the director until the necessary proof is accepted by the police chief and conveyed to the director. Presentation of a diploma or other certificate of graduation from a school which has previously been determined by the police chief to be an approved school, as defined in this chapter, shall be prima facie, but not conclusive, evidence of the applicant's academic achievements. If the applicant has graduated from a school not previously determined by the police chief to be an approved school, the applicant must submit documentation relative to the school sufficient to establish, in fact, that he or she graduated from an approved school. Any costs or expenses incurred by the police chief in and about the process of proving the approved status shall be paid by the applicant, prior to the issuance of the permit, and such costs or expenses shall be in addition to the \$25 fee referred to in subsection (a), above. The decision of the police chief as to the applicant's having met the requirements of this chapter as to an approved program shall be conveyed

Sec. 11-4-26. Massage establishment permit; application; application fees; renewal; renewal fee.

(a) Any person desiring a massage establishment permit to establish, maintain or operate a massage establishment in the city shall make application to the director. Each massage establishment permit application shall be accompanied by an

investigative fee of \$25, payable to the director of finance. Each application shall contain the name, address, telephone number of the applicant, and the name, address and telephone number of the location where the applicant proposes to operate, maintain, or establish a massage establishment in the city.

(b) The application shall state thereon that "it is unlawful for any person to make a false statement on this application and discovery of a false statement shall constitute sufficient grounds, in and of itself, for denial of an application or revocation of a permit, or for the imposition of a fine or imprisonment or both."

(c) It shall be unlawful for the applicant to make a false statement on any application filed pursuant to this section.

(d) The application shall state thereon that the applicant has read and understands fully that no person may administer a massage at the massage establishment for which the permit is sought without first having obtained and without currently holding a valid unsuspended massage therapist permit issued by the City of Alexandria.

(e) The issued permit shall be valid for a period of one (1) year, and it may be renewed for additional one- (1) year periods upon the filing of new applications. All of the provisions of this section shall apply to renewals in the same manner as they apply to applications.

Sec. 11-4-27. Same--issuance; investigation of premises.

The director, before issuing any massage establishment permit, shall cause an investigation to be made of the premises named and described in the application for a massage establishment permit pursuant to this article, for the purpose of determining whether the massage establishment complies with the provisions of this chapter. If the director shall be satisfied from such investigation that the massage establishment is in conformity with the provisions of this chapter, he or she shall issue, or cause to be issued, a massage establishment permit authorizing the establishment, maintenance and operation of a massage establishment. If the director shall not be so satisfied, he or she shall deny the application and advise the applicant, in writing, of the denial setting forth the reasons therefor. Every massage establishment permit issued pursuant to this article shall terminate at the expiration of one (1) year from the date of its issuance, unless sooner suspended.

Sec. 11-4-28. Same--revocation.

Discovery by the director of a false statement on the application as provided for in section 11-4-25 of this article shall be grounds for revocation of the permit. Notice of the hearing before the director for revocation of the permit shall be given,

in writing, setting forth the grounds of the complaint and the time and place of the hearing. The notice shall be mailed by certified mail to the applicant's last known business address at least five (5) days prior to the date set for the hearing.

Sec. 11-4-29. Appeal from denial of application or revocation of massage establishment or massage therapist permit.

Any applicant or permittee aggrieved by the actions of the director in the denial of an application for a massage establishment permit or a massage therapist permit, or in the decision of the director with reference to the revocation of a massage establishment permit or massage therapist permit pursuant to this article, shall have the right of appeal to the city council. The appeal shall be taken by filing with the clerk of the city council, within 10 days after notice of the action complained of has been mailed to the persons' last known business address if pertaining to a massage establishment, or residential address if pertaining to a massage therapist permit, by certified mail, a written statement setting forth the grounds for appeal. The clerk of the city council shall forthwith notify the city manager, who shall schedule a public hearing before the city council and shall give reasonable notice of the hearing to the appellant. The decision and order of the city council on the appeal shall be final and conclusive.

Sec. 11-4-30. Right of entry of police chief or director.

The police chief or the director is hereby authorized to enter, examine and survey any premises in the city for which a massage establishment permit has been issued pursuant to this chapter during business hours to enforce the provisions of this chapter. Such inspections shall be made in a reasonable manner during business hours only. Every holder of a massage establishment permit shall be deemed, by virtue of the application for and utilization of such permit, to have consented and agreed to all of the provisions of this article, including, but not by way of limitation, the right of entry and inspection set forth in this section.

Sec. 11-4-31. Minimum standards for massage establishments.

No massage establishment shall be operated or maintained in the city that does not comply with the following minimum standards:

(1) The premises shall have 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.

(2) Closed cabinets shall be provided and 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.

(3) Clean linen and towels shall be provided for each massage patron. No common use of towels or linens shall be permitted.

(4) All massage tables and all floor areas shall have surfaces which may be readily disinfected. This provision shall be applicable to bathtubs, showers, stalls, steam or bath areas, if applicable.

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

(6) Adequate dressing facilities shall be provided for the patrons to be served at any given time. Adequate toilet facilities as required by law shall be furnished.

(7) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities, where provided, shall be in good repair and maintained in a clean and sanitary condition. All facilities shall be thoroughly cleaned each day the business is in operation, and all massage tables and bathtubs and showers (where furnished) shall be thoroughly cleaned after each use. When carpeting is used on any floor area, it shall be kept dry.

(8) The premises shall be equipped with a service sink for custodial services.

(9) No massage establishment shall at any time employ or utilize the services of a massage technician; no massage may be administered by anyone other than a massage therapist.

Sec. 11-4-32. Specific unlawful acts.

(a) It shall be unlawful for any person, in a massage establishment, to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital part of any other person.

(b) It shall be unlawful for any person, in a massage establishment, to expose his or her sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person, in a massage establishment, to expose the sexual or genital parts, or any portion thereof, of any other person.

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

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

Sec. 11-4-33. Hours of operation.

No massage establishment may operate at anytime other than between the hours of 6:00 a.m. through 12:00 p.m. daily. Massage establishments may be opened during these hours seven (7) days a week.

Sec. 11-4-34. Penalty for violation of article.

Any person violating any of the provisions of this article shall, upon conviction thereof, be guilty of a misdemeanor and shall be punished by a fine not exceeding \$500 or by imprisonment not exceeding six (6) months or by both. Violations of the provisions of this article may also be restrained, prohibited or enjoined by appropriate action or proceeding. Provided, however, that no provision of this article shall apply to police officers or agents or officials of the United States, Commonwealth of Virginia, City of Alexandria or any agency thereof or their agents while in performance of official duties relating to any violation of this article or of any law of the United States, the Commonwealth of Virginia or the City of Alexandria.

Section 3. That the title of and an informal memorandum explaining this ordinance shall be published in a newspaper of general circulation published in the city not later than five days following its introduction together with a notice containing the time and place for a public hearing. The city clerk shall have the full text of this ordinance printed in sufficient numbers to supply copies to meet request. The city clerk shall note the date of introduction and first reading, the date of publication, the date of the public hearing, and the date of the second reading and final passage in the minutes of the meeting. This ordinance shall become effective the date of its final passage.

JAMES P. MORAN, JR.
Mayor

Final Passage: March 22, 1986