

ORDINANCE NO.

ORDINANCE AMENDING ARTICLE III OF CHAPTER 9 OF THE CODE OF
ORDINANCES OF THE CITY OF ASHEVILLE PERTAINING TO MASSAGE AND
BODYWORK THERAPY REGULATIONS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE
THAT:

Section 1. Article III of Chapter 9 of the Code of Ordinances of the City of Asheville is hereby repealed and replaced with the following:

**ARTICLE III. MASSAGE AND BODYWORK THERAPY
REGULATIONS**

(a) Sec. 9-131. Purpose and objective.

The City of Asheville recognizes that the improper practice of massage and bodywork therapy is potentially harmful to the public. In the interest of public health, safety, welfare and morals, the following provisions and regulations are hereby adopted.

(b) Sec. 9-132. Definitions.

As used in this article, the terms defined in this section shall have the following meanings ascribed to them:

Massage and bodywork therapy means systems of activity applied to the soft tissues of the human body for therapeutic, educational, or relaxation purposes. The application may include:

- a. Pressure, friction, stroking, rocking, kneading, percussion, or passive or active stretching within the normal anatomical range of movement.
- b. Complementary methods, including the external application of water, heat, cold, lubricants, and other topical preparations.
- c. The use of mechanical devices that mimic or enhance actions that may possibly be done by the hands.

Massage and bodywork therapist means a person licensed pursuant to Article 36 of Chapter 90 of the North Carolina General Statutes.

Massage and bodywork therapist establishment/business means any establishment or business wherein massage and bodywork therapy is offered or practiced, including, but not limited to, establishments commonly known as health clubs, physical culture studios, massage studios, massage parlors, or similar establishments by whatever name designated.

Practice/Profession of massage and bodywork therapy means the application of massage and bodywork therapy to any person for a fee or other consideration. This does not include any of the procedures, practices or activities listed in N.C.G.S. §90-623(d).

Private parts means the penis, scrotum, mons veneris, vulva or vaginal area.

(c) Sec. 9-134. License.

Any person practicing the profession of massage and bodywork therapy shall have a current state massage and bodywork therapy license issued pursuant to Article 36 of Chapter 90 of the North Carolina General Statutes, unless exempted pursuant to N.C.G.S. §90-624.

Any person practicing the profession of massage and bodywork therapy who has a current state massage and bodywork license issued pursuant to Article 36 of Chapter 90 of the North Carolina General Statutes is exempt from a city privilege license tax.

(d) Sec. 9-135. Hours of operation.

No massage and bodywork therapist or massage and bodywork therapy establishment shall engage in massage and bodywork therapy on any person or engage in the practice or profession of massage and bodywork therapy before 5:00 a.m. or after 11:30 p.m.

(e) Sec. 9-136. Massage of private parts for hire prohibited.

It shall be unlawful for any person to massage or to offer to massage the private parts of another for hire.

(f) Sec. 9-137. Patronage of massage businesses by minors; employment of minors.

(1) No massage and bodywork therapist or massage and bodywork therapy establishment shall massage or treat any person under the age of 18 years, or permit or condone such treatment, except when the parent or guardian of the person under 18 accompanies the person under the age of 18 during the massage treatment or upon written order of a licensed physician, osteopath, chiropractor, podiatrist, or registered physical therapist, such order being dated and in the possession of the person giving the massage or treatment.

(2) No massage and bodywork therapist or massage and bodywork therapy establishment shall employ any person under the age of 18 years in the practice or profession of massage and bodywork therapy.

(g) Sec. 9-138 Display of licensure.

Every massage and bodywork therapist shall display the current state massage and bodywork therapy license issued pursuant to Article 36 of Chapter 90 of the North Carolina General Statutes in a prominent place at his or her primary place of business/establishment so as to be visible for inspection. Massage and bodywork therapists providing massage and bodywork therapy outside their primary business/establishment location or at the location of clients, shall have a copy of the license available for inspection upon request.

(h) Sec. 9-139. Penalties.

Violation of this section shall be a misdemeanor and shall be punishable as provided in N.C.G.S. §14-4.

(i) Secs. 9-140-9-170 Reserved.

Section 2. This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law.

Section 3. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 4. All ordinances and clauses of ordinances in conflict herewith be and are hereby repealed, to the extent of such conflict.

Section 5. The provisions of this ordinance shall be in full force and effect upon adoption.

Read, approved and adopted this the _____ day of _____, 2013.

City Clerk

Mayor

Approved as to form:

City Attorney