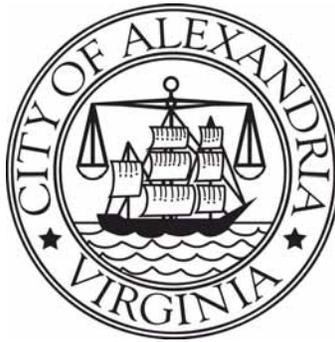


DRAFT
MESSAGE
ORDINANCE



for the
CITY OF ALEXANDRIA

Last Revised 10/04/09

This document and related materials can be found at
www.alexandriava.gov/MassagePermits

1 ATTACHMENT 1

2
3 ORDINANCE NO. _____

4
5 AN ORDINANCE to amend and reordain Section 11-4.2-2 (PROVISION OF
6 MASSAGES); Section 11-4.2-3 (MESSAGE THERAPISTS; ISSUANCE OF
7 MESSAGE THERAPIST PERMITS); Section 11-4.2-4 (SAME – ISSUANCE
8 OF HOME MESSAGE PERMITS); Section 11-4.2-6 (SAME – APPLICATION
9 FOR MESSAGE ESTABLISHMENT PERMIT; RENEWAL); and Section 11-
10 4.2-7 (SAME – MINIMUM STANDARDS) and to enact a new Section 11-4.2-13
11 (PLAN REVIEW) of Chapter 4.2 (MESSAGE REGULATIONS), Title 11
12 (HEALTH, ENVIRONMENTAL AND SAFETY REGULATIONS) of The Code
13 of The City of Alexandria, Virginia, 1981, as amended.

14
15 THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

16
17
18 Section 1. That Section 11-4.2-2 of The Code of the City of Alexandria, Virginia,
19 1981, as amended, be, and the same hereby is, amended and reordained to read as
20 follows:

21
22 Sec. 11-4.2-2 Provision of massages.

- 23 (a) Except as provided in subsection (b), it shall be unlawful for any person to provide
24 or administer a massage at any location in the city.
25 (b) Only the following persons, under the following conditions, may provide or
26 administer a massage in the city:
27 (1) massage therapists:
28 (i) at or within a massage establishment;
29 (ii) at the regular place of business of the massage recipient between the hours of 9:00
30 a.m. and 6:00 p.m.; provided, that a therapist may only provide a seated massage at this
31 location and may do so only if he possesses his massage therapy permit while performing
32 the seated massage;
33 (iii) at a public gathering; provided, that the therapist possesses his massage therapy
34 permit while performing massages at such a gathering;
35 (iv) at a care facility; provided, that the therapist possesses his massage therapy permit
36 while performing massages at this location; and
37 (v) at the residence of the massage recipient between the hours of 6:00 a.m. and 9:00
38 p.m.; provided, that the therapist holds a valid home massage permit issued pursuant to
39 this chapter, possesses that permit and his massage therapy permit while performing
40 massages in a residence, and provides massages at the residence only to individuals
41 identified in his home massage permit.
42 (vi) at a hotel having 45 or more guest rooms, which offers massage services to its
43 registered overnight guests in the normal course of the hotel's business, either in the hotel
44 room of the guest receiving the massage, or at a salon, day spa, fitness center or like
45 facility located within the hotel, between the hours of 6:00 a.m. and 11:00 p.m.; provided,

1 that the therapist carries his massage therapy permit on his person while performing
2 massages in guest rooms.

3 (2) persons who are certified as a massage therapist by, and are in good standing with,
4 the Virginia Board of Nursing:

5 (i) at the regular place of business of the massage recipient between the hours of 9:00
6 a.m. and 6:00 p.m.; provided, that the board certified therapist may only provide a seated
7 massage at this location and may do so only if he possesses a picture identification while
8 performing the seated massage; and

9 (ii) at a public gathering; provided, that the board certified therapist possesses a picture
10 identification while performing massages at such a gathering; and

11 (3) persons:

12 (i) providing massage services under the supervision of a duly licensed physician,
13 surgeon, physical therapist, chiropractor or osteopath at a hospital, nursing home, ~~or~~
14 ~~medical clinic, or at~~ the office of a duly licensed physician, surgeon, physical therapist,
15 chiropractor or osteopath; or

16 (ii) at a barbershop or beauty salon; provided, that, at this location, the person may only
17 provide a massage to the scalp, face, neck or shoulders of the massage recipient.

18
19 Section 2. That Section 11-4.2-3 of The Code of the City of Alexandria, Virginia,
20 1981, as amended, be, and the same hereby is, amended and reordained to read as
21 follows:

22
23 **Sec. 11-4.2-3 Massage therapists; issuance of massage therapist permits.**

24 (a) Any person who desires to provide or administer massages in the city as a massage
25 therapist shall possess a valid massage therapist permit issued in accordance with this
26 section. A person possessing a massage therapist permit issued under this section who,
27 following receipt of the permit, does not continue to meet the requirements set out in
28 subsection (b) below shall ~~not~~ be considered to be in possession of a ~~valid~~ suspended
29 massage therapist permit. No person shall provide or administer massages in the city
30 while their massage therapist permit is suspended. A massage therapist permit
31 application as required in subsection (c) below, revised to reflect any new information,
32 new employer, or new massage therapy certificate issued by the Board of Nursing, and a
33 permit reinstatement fee in an amount set by the Alexandria City Council shall be
34 submitted to the director in order for a suspended massage therapist permit to be
35 considered for reinstatement.

36 (b) In order to be eligible for a massage therapist permit, the applicant shall:

37 (1) be certified as a massage therapist pursuant to sections 54.1-3000 and 54.1-3029 of
38 the Code of Virginia (1950), as amended, by, and be in good standing with, the Virginia
39 Board of Nursing, or have a valid provisional certificate to practice massage therapy
40 which has been issued by the Board of Nursing pursuant to its regulations;

41 (2) own, or be employed at or under contract including employees of a contractor with
42 (i) a massage establishment for which a permit has been issued under section 11-4.2-5, or
43 (ii) a hotel in the City of Alexandria described in section 11-4.2-2(b)(1)(vi) of this code;
44 and

45 (3) not have been convicted of, or pleaded nolo contendere or suffered a forfeiture in
46 relation to, any of the offenses identified in sections 18.2-344 through 18.2-361 or

1 sections 18.2-372 through 18.2-387 of the Code of Virginia (1950), as amended, which
2 sections relate to sexual offenses, prostitution, obscenity and similar offenses, or any
3 similar offenses under the laws of another jurisdiction.

4 (c) All applicants for a massage therapist permit shall apply to the director. The
5 application shall be on a form prepared by the director and shall be accompanied by an
6 application fee of ~~\$50~~in the amount established by the Alexandria City Council, payable
7 to the director of finance. The application shall contain the name, address, telephone
8 number, date of birth, place of birth, and height ~~and weight~~ of the applicant, the
9 applicant's Virginia Board of Nursing certified massage therapist number or provisional
10 certification number, and the address and telephone number of the massage establishment
11 or hotel which the applicant owns, is employed at, or is under contract with. The
12 applicant shall also state on the application all criminal offenses for which he has been
13 convicted or in relation to which he has pleaded nolo contendere or suffered a forfeiture,
14 including the offenses identified in subsection (b).

15 (d) The application to be filed under this section shall state thereon, "It is unlawful for
16 any person to make a false statement on this application and the discovery of a false
17 statement shall constitute sufficient grounds, in and of itself, for the denial of an
18 application or revocation of a permit, or for the imposition of a fine or imprisonment or
19 both." It shall be unlawful for a person to make a false statement on an application filed
20 under this section.

21 (e) The director shall refer the applicant to the chief of police to be photographed and
22 fingerprinted. The photograph and fingerprints shall constitute part of the application.
23 The chief of police shall, to the extent permitted by law, forward the applicant's
24 fingerprint cards to the Virginia state police for purposes of conducting a review of the
25 applicant's criminal history. After he has completed his investigation of the applicant, the
26 chief of police shall return the application to the director, together with the results of his
27 investigation.

28 (f) The director shall deny any application for a massage therapist permit if the director
29 finds that the applicant does not satisfy the requirements set out in subsection (b). The
30 making of a false statement on an application shall also be grounds for denial of the
31 application.

32 (g) The decision of the director on an application under this section shall be conveyed to
33 the applicant in writing, and shall be sent ~~by certified mail~~ to the applicant's last known
34 address. If the director denies the application, he shall state in his written decision the
35 grounds for the denial and shall notify the applicant by certified mail of his right to
36 request a hearing, as provided in subsection (h). If the director approves the application,
37 he shall issue, or cause to be issued, a massage therapist permit to the applicant.

38 (h) An applicant whose application under this section has been denied may request a
39 hearing before the director. Such request, which shall not stay the effect of the director's
40 initial decision, shall be in writing and shall be filed with the director within 10 days of
41 the date on which the director's decision was sent to the applicant. The director shall
42 schedule a hearing on a date and at a time that is mutually convenient to the applicant and
43 the director, and shall notify the applicant in writing of the date, time and place of the
44 hearing. Within 10 days of the hearing, the director shall send a copy of his decision by
45 certified mail to the applicant at his last known address. This decision shall be final and
46 conclusive. In the event an applicant does not timely request a hearing on the director's

1 initial decision to deny his application, or requests but does not attend the hearing, the
2 initial decision shall be final and conclusive.

3 (i) If, following the issuance of a massage therapist permit, a massage therapist intends
4 to provide or administer massages at a massage establishment or hotel that is different
5 from the establishment or hotel identified on his application, the therapist shall
6 immediately notify the director in writing of this different establishment or hotel within
7 five business days.

8 (j) A permit issued under this section shall be valid for a period from the date of
9 issuance until February 14 of the year five of two years after the year of issuance, and it
10 may be renewed for additional ~~two~~ five-year periods upon the filing of a new application
11 with the director, along with a \$50-fee in the amount established by the Alexandria City
12 Council, payable to the director of finance. A late renewal application fee, in an amount
13 established by Alexandria City Council, shall be charged to those applicants whose
14 renewal applications are submitted more than 14 days after their massage therapist permit
15 has expired. In applying for the renewal of a permit, the applicant shall demonstrate that
16 he continues to meet the requirements of subsection (b). Every permit issued under this
17 section shall contain a serial number as determined by the director, and each renewal
18 application filed, and each renewal permit issued, shall continue to utilize the same serial
19 number. The provisions of this section that apply to initial applications for massage
20 therapist permits shall apply to applications for permit renewals.

21 (k) Every person to whom a massage therapist permit has been issued shall carry the
22 permit on his person, or shall display the permit in a conspicuous place in the massage
23 establishment or hotel at which he provides or administers massages.

24 (l) If, following the issuance of a massage therapist permit, a massage therapist changes
25 their name, mailing address or telephone number, the therapist shall notify the director in
26 writing of their new name, mailing address or telephone number within five business
27 days.

28
29 Section 3. That Section 11-4.2-4 of The Code of the City of Alexandria, Virginia,
30 1981, as amended, be, and the same hereby is, amended and reordained to read as
31 follows:

32
33 **Sec. 11-4.2-4 Same--issuance of home massage permits.**

34 (a) Any massage therapist desiring to provide or administer a massage in the residence
35 of massage recipients, pursuant to section 11-4.2-2(b)(1)(v), shall possess a valid home
36 massage permit issued in accordance with this section. A person possessing a home
37 massage permit issued under this section who, following receipt of the permit, does not
38 continue to meet the requirements set out in subsection (b) below shall not be considered
39 to be in possession of a valid home massage therapist permit.

40 (b) In order to be eligible for a home massage permit, the applicant shall possess a valid
41 massage therapist permit issued under section 11-4.2-3, and propose to provide or
42 administer massages only to individuals who reside in residences in the city and only at
43 the residences of such individuals;

44 (c) All applicants for a home massage permit shall apply to the chief of police. The
45 application shall be on a form prepared by the chief, and shall be accompanied by an
46 application fee ~~of \$25~~ in the amount established by the Alexandria City Council, payable

1 to the director of finance. The application shall contain the applicant's name and address,
2 his Virginia Board of Nursing certified massage therapist number, the number of the
3 massage therapist permit issued to him under section 11-4.2-3 and, as to each residence at
4 which he wishes to provide massages, the address of the residents who will receive
5 massages.

6 (d) The application to be filed under this section shall state thereon, "It is unlawful for
7 any person to make a false statement on this application and the discovery of a false
8 statement shall constitute sufficient grounds, in and of itself, for denial of an application
9 or revocation of a permit, after the imposition of a fine or imprisonment or both." It shall
10 be unlawful for a person to make a false statement on an application filed under this
11 section.

12 (e) The chief of police shall deny any application for a home massage permit if the chief
13 finds that the applicant does not satisfy the requirements set out in subsection (b). The
14 making of a false statement on an application shall also be grounds for denial of the
15 application.

16 (f) The decision of the chief of police on an application under this section shall be
17 conveyed to the applicant in writing, and shall be sent by certified mail to the applicant's
18 last known address. If the chief denies the application, he shall state in his written
19 decision the grounds for the denial and shall notify the applicant of his right to request a
20 hearing, as provided in subsection (g). If the chief approves the application, he shall
21 issue, or cause to be issued, a home massage permit to the applicant which, among other
22 things, shall state the address of each residence at which the therapist is authorized to
23 provide massages.

24 (g) An applicant whose application under this section has been denied may request a
25 hearing before the chief of police. Such request, which shall not stay the effect of the
26 chief's initial decision, shall be in writing and shall be filed with the chief within 10 days
27 of the date on which the chief's decision was sent to the applicant. The chief shall
28 schedule a hearing on a date and at a time that is mutually convenient to the applicant and
29 the chief, and shall notify the applicant in writing of the date, time and place of the
30 hearing. Within 10 days of the hearing, the chief shall send a copy of his decision by
31 certified mail to the applicant at his last known address. This decision shall be final and
32 conclusive. In the event an applicant does not timely request a hearing on the chief's
33 initial decision to deny his application, or requests but does not attend the hearing, the
34 initial decision shall be final and conclusive.

35 (h) If, following the issuance of a home massage permit, a massage therapist wishes to
36 provide or administer massages at residences other than those identified in the permit, the
37 therapist shall request the chief of police to amend the permit to include the address of
38 such other residences at which the therapist may provide massages. No massages shall be
39 provided in such other residences until an appropriate permit amendment has been issued
40 by the chief.

41 (i) A permit issued under this section shall be valid for a period of one year, and it may
42 be renewed for additional one-year periods upon the filing of a new application with the
43 chief of police, along with a \$25-fee in the amount established by Alexandria City
44 Council, payable to the director of finance. In applying for the renewal of a permit, the
45 applicant shall demonstrate that he continues to meet the requirements of subsection (b)
46 and has, since the issuance of the permit, complied with section 11-4.2-2(b)(1)(v). Every

1 permit issued under this section shall contain a serial number as determined by the chief
2 of police, and each renewal application filed and each renewal permit issued shall
3 continue to utilize the same serial number.

4 (j) Every person to whom a home massage permit has been issued shall carry the permit
5 on his person when providing or administering massages in a residence.

6 (k) A home massage permit shall not be required for provision of massages at a hotel
7 pursuant to section 11-4.2-2(b)(1)(vi).

8
9 Section 4. That Section 11-4.2-6 of The Code of the City of Alexandria, Virginia,
10 1981, as amended, be, and the same hereby is, amended and reordained to read as
11 follows:

12
13 **Sec. 11-4.2-6 Same--application for massage establishment permit; renewal.**

14 (a) Any person desiring to own or operate a massage establishment in the city and every
15 salon, day spa, fitness center or like facility, but not guest rooms, located in a hotel at
16 which massages are provided pursuant to section 11-4.2-2(b)(1)(vi), shall obtain a
17 massage establishment permit from the director. An application for a massage
18 establishment permit shall be on a form prepared by the director and shall be
19 accompanied by an application fee ~~of \$25~~in the amount established by the Alexandria
20 City Council, payable to the director of finance. Each application shall contain the name,
21 address and telephone number of the owner and operator of the massage establishment,
22 ~~and the address and telephone number of the establishment, and the name, mailing~~
23 address and telephone number of each massage therapist that will work at the massage
24 establishment. The applicant shall also state on the application all criminal offenses for
25 which the owner and operator have been convicted or in relation to which either has
26 pleaded nolo contendere or suffered a forfeiture, including the offenses identified in
27 section 11-4.2-3(b).

28 (b) The application shall state that no person may provide or administer a massage at the
29 massage establishment for which the permit is sought without a massage therapist permit
30 issued under this chapter, and that the applicant has read and understands this statement.
31 The application shall also state thereon, "It is unlawful for any person to make a false
32 statement on this application and discovery of a false statement shall constitute sufficient
33 grounds, in and of itself, for denial of an application or revocation of a permit, or for the
34 imposition of a fine or imprisonment or both." It shall be unlawful for the applicant to
35 make a false statement on any application filed pursuant to this section.

36 (c) Upon receipt of an application, the director shall forward a copy to the chief of
37 police for his review, and shall cause an investigation to be made of the massage
38 establishment named in the application to determine whether it will comply with the
39 provisions of section 11-4.2-7. If the director is satisfied from such investigation that the
40 massage establishment will so comply, he shall issue, or cause to be issued, a massage
41 establishment permit authorizing the establishment, maintenance and operation of the
42 massage establishment. If the director is not so satisfied, he shall deny the application.

43 (d) The decision of the director on an application under this section shall be conveyed to
44 the applicant in writing, and shall be sent ~~by certified mail~~ to the address given by the
45 applicant in the application. If the director denies the application, he shall state in his

1 written decision the grounds for the denial and shall notify the applicant by certified mail
2 of his right to request a hearing, as provided in subsection (e).

3 (e) An applicant whose application under this section has been denied may request a
4 hearing before the director. Such request, which shall not stay the effect of the director's
5 initial decision, shall be in writing and shall be filed with the director within 10 days of
6 the date on which the director's decision was sent to the applicant. The director shall
7 schedule a hearing on a date and at a time that is mutually convenient to the applicant and
8 the director, and shall notify the applicant in writing of the date, time and place of the
9 hearing. Within 10 days of the hearing, the director shall send a copy of his decision by
10 certified mail to the applicant at his last known address. This decision shall be final and
11 conclusive. In the event an applicant does not timely request a hearing on the director's
12 initial decision to deny his application, or requests but does not attend the hearing, the
13 initial decision shall be final and conclusive.

14 (f) A massage establishment permit issued under this section shall be valid ~~for a period~~
15 ~~of one year~~ from the date of issuance until February 14 of the year after it was issued, and
16 it may be renewed for additional ~~one-year~~ permit periods upon the filing of a new
17 application. A late renewal application fee, in an amount established by Alexandria City
18 Council, shall be charged to those applicants whose renewal applications are submitted
19 more than 14 days after their massage establishment permit has expired. The provisions
20 of this section that apply to initial applications shall apply to renewal applications.

21 (g) Whenever a massage therapist is newly employed by a massage establishment or a
22 massage therapist leaves the employ of a massage establishment, the massage
23 establishment shall notify the director of these changes within five business days by
24 providing the date the change occurred and the name, mailing address and telephone
25 number of the massage therapist.

26
27 Section 5. That Section 11-4.2-7 of The Code of the City of Alexandria, Virginia,
28 1981, as amended, be, and the same hereby is, amended and reordained to read as
29 follows:
30

31 **Sec. 11-4.2-7 Same--minimum standards.**

32 Every massage establishment in the city and every salon, day spa, fitness center or
33 like facility, but not guest rooms, located in a hotel at which massages are provided
34 pursuant to section 11-4.2-2(b)(1)(vi), shall, at all times, comply with the following
35 minimum health and safety standards:

36 (1) Massages may only be provided or administered by a massage therapist who
37 possesses a valid massage therapist permit issued under this chapter.

38 (2) The premises shall have adequate equipment for disinfecting and sterilizing
39 nondisposable instruments and materials used in administering massages. Such
40 nondisposable instruments and materials shall be disinfected after use on each patron.

41 (3) Closed cabinets shall be provided and used for the storage of clean linen, towels and
42 other materials used in connection with administering massages. All soiled linens, towels
43 and other materials shall be kept in properly covered containers or cabinets, which
44 container's or cabinets shall be kept separate from the clean storage areas.

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

1 (5) All massage tables shall have surfaces which may be readily disinfected. The floor
2 areas, depending on the material covering the floor surface, shall have surfaces which
3 may be readily disinfected. This provision shall be applicable to bathtubs, showers, stalls,
4 steam or bath areas, if applicable.

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

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

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

15 (9) The premises shall be equipped with a service sink for custodial services, if
16 applicable.

17 (10) The premises shall be equipped with a hand sink (lavatory) in each room where
18 massages are provided. Massage establishments under permit on January 1, 2010, will
19 have until January 1, 2015, or until they change ownership, whichever comes first, to
20 meet this requirement.

21 (11) The massage therapist shall thoroughly wash their hands and exposed portions of
22 their arms in a hand sink with soap and warm water both immediately before and after
23 administering a massage. Hand washing shall be done using the following procedure:

24 (a) Rinse hands and exposed areas of the arms under clean, running warm water;

25 (b) Apply soap to the area to be washed;

26 (c) Rub hands together vigorously for at least 10 to 15 seconds while paying
27 particular attention to removing soil from underneath the fingernails during the cleaning
28 procedure and creating friction on the surfaces of the hands and arms, finger tips, and
29 areas between the fingers;

30 (d) Thoroughly rinse under clean, running warm water; and

31 (e) Immediately following the cleaning procedure, thoroughly dry the hands and
32 arms using disposable paper towels or a heated-air hand drying device.

33 (f) To avoid recontaminating their hands or arms, massage therapists may use
34 disposable paper towels or similar clean barriers when touching surfaces such as
35 manually operated faucet handles on a handwashing sink.

36
37 Section 6. That a new Section 11-4.2-14 of The Code of the City of Alexandria,
38 Virginia, 1981, be adopted to read as follows:

39
40 **Sec. 11-4.2-14 Plan Review.**

41 A drawing, approximately to scale, of each proposed new massage establishment shall be
42 submitted to the director along with the initial application for a massage establishment
43 permit. The drawing shall include the location of all pieces of equipment and furniture as
44 well as all plumbing fixtures. A plan review request form and a plan review fee in the
45 amount established by the Alexandria City Council shall be submitted with the drawing.
46 The director shall review the drawing and make a site visit to determine if the physical

1 facilities meet the requirements of Section 11-4.2-7. A new drawing (with plan review
2 fee) shall be submitted to the director for review and approval whenever the massage
3 establishment is modified or remodeled.

4

5 Section 7. That this ordinance shall become effective January 1, 2010.

6

7

WILLIAM D. EUILLE

8

Mayor

9

- 10 Introduction:
- 11 First Reading:
- 12 Publication:
- 13 Public Hearing:
- 14 Second Reading:
- 15 Final Passage:
- 16