

ORDINANCE NO. 5931

**AN ORDINANCE TO AMEND FAIRBANKS GENERAL CODE CHAPTER 14
BUSINESSES, ARTICLE VII MASSAGE PRACTITIONER LICENSES**

WHEREAS, the City Code pertaining to massage practitioners is outdated in areas; and

WHEREAS, online criminal background checks are now available which provide instant results and a more thorough nationwide criminal history search; and

WHEREAS, the proposed changes will make the Code pertaining to massage practitioners more consistent with other Code sections governing occupational licensing; and

WHEREAS, the proposed changes will streamline the application process, will provide instant results for applicants, and will be less costly for applicants,

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. Fairbanks General Code Chapter 14, Article VII is amended as follows [new text in **bold/underline** font; deleted text in ~~striketrough~~ font]:

ARTICLE VII. - MASSAGE PRACTITIONERS LICENSES

Sec. 14-251. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult-oriented establishment or *adult business* means adult bookstores, adult motion picture theaters, escort services, or similar type business where, by the nature of the business, minors under the age of 18 are denied entry, or businesses which are prohibited by law from having minors or unaccompanied minors on the premises for reasons other than the sale of alcoholic beverages.

Massages or related therapies means the application of a system of manipulations to the muscular structure and soft tissues of the human body for the purposes of stress reduction, the release of muscular tension, and/or general preventative wellness. Massages or related therapies may include but are not specifically limited to stroking, kneading, tapping, compression, vibration by hand or mechanical device, rocking, friction, pressure, and those techniques based on manipulation or the application of pressure to the muscular structure or soft tissues of the human body, which may also include nonforceful passive or active movement and/or the application of techniques intended to affect the energetic systems of the body. The use of oils, lotions, powders, herbal preparations or other lubricants may also be included.

Sec. 14-252. - License required.

- (a) No person may perform massages or related therapies for remuneration without first obtaining a massage practitioner license from the city clerk. ~~Application for a massage practitioner license shall be made to the city clerk in such form as the city clerk may prescribe.~~
- (b) ~~The applicant shall submit a current criminal history report for the past five years obtained from the state department of public safety if a state resident or, if not, a current record obtained from the state or residency.~~
- (e**b**) The city clerk shall issue a massage practitioner license if the city clerk determines that the applicant meets the minimum requirements, is 18 years of age or older, and is not prohibited from obtaining such license.
- (e**c**) Specifically excluded from the licensing requirements of this section are:

- (1) Students enrolled in a training program and under the direct supervision of a school accredited by the state board of education or approved by the state commission on post-secondary education.
- (2) Training rooms of recognized professional or amateur athletic teams.
- (3) Licensed health care facilities.
- (4) Licensed practitioners of chiropractics, osteopathy, orthopedics, physical therapy, occupational therapy, podiatry or medicine.

Sec. 14-253. - ~~Minimum requirements for license~~ Application for license; standards for issuance of license; renewals.

(a) Applications for new licenses and license renewals issued under this article shall be made upon forms prepared and made available by the city clerk and shall state:

- (1) The full name, date of birth, residence, and five-year employment history of the applicant.**
- (2) Whether the applicant is a citizen of the United States.**
- (3) A specific description of the location of the principal place of business of the applicant.**
- (4) An eight-year history of residency of the applicant.**
- (5) Such other information as the city clerk may find reasonably necessary to effectuate the general purpose of this article and to make a fair determination of whether the terms of this article have been complied with.**

(ab) A massage practitioner license may only be issued to an applicant who meets at least two of the following minimum requirements and submits documented proof thereof:

- (1) Graduation from a state-approved post-secondary education school of massage or other massage training program which requires the successful completion of a program of at least 350 hours of supervised instruction;
- (2) Current professional class membership in a recognized national professional massage organization whose members are pledged to a code of ethics;
- (3) Current certification by the National Certification Board for Therapeutic Massage and Bodywork or its successor ~~or a national certification program meeting similar standards;~~
- (4) Has, within three years of application, been licensed as a massage practitioner in another state or country that regulates massage practitioners and has not had that license suspended or revoked; or
- (5) Has, within five years of application, had two years' or more experience as a massage practitioner. The applicant must supply verification of such experience to the city clerk in the form of two notarized statements from persons having personal knowledge of the applicant's experience. Experience is defined as a minimum of part-time status of 20 hours weekly or 400 hours in a one-year period.

~~(bc) A massage practitioner license shall not be issued to anyone who:~~ **Except as otherwise provided in this subsection, the applicant must not have had a felony conviction within eight years or a misdemeanor conviction within four years of:**

- ~~(1) Is not at least 18 years of age;~~ **Prostitution or promotion of prostitution;**
- ~~(2) Is addicted to or a habitual user of illegal drugs or narcotics;~~ **Any offense under AS Title 11, Chapter 71 Controlled Substances;**
- ~~(3) Has been convicted of any misdemeanor involving assault or dishonesty within three years of the date of application;~~ **Any felony or misdemeanor which includes as an element the use or threat of force upon a person;**
- ~~(4) Has been convicted of any felony within five years of the date of application; or~~ **Burglary, felony larceny, fraud or embezzlement;**
- ~~(5) Has been convicted at any time of a crime involving sexual misconduct.~~ **Any sexual offense; or**
- (6) Two separate felony convictions of any type during the time indicated in 14-253(c).**

(d) The applicant must not be addicted to the use of intoxicants or narcotics; must be of good moral character and repute; and must not be a sex offender or kidnapper subject to the registration requirements of AS Title 12, Chapter 63.

(e) The City Clerk's Office shall procure an online criminal history report for each applicant, the cost of which shall be included in the massage practitioner application fee. Both the application fee and the biennial license fee for all new licenses and renewals will be set forth in the city's schedule of fees and charges for services.

(f) All licenses issued under this article shall be for a term of two years and shall not be transferrable.

Sec. 14-254. - Requirements for massage businesses.

(a) Every establishment in the business of providing massages or related therapies must have a valid city and state business license.

(b) Every establishment in the business of providing massages or related therapies shall be maintained and operated in a safe and sanitary manner.

(c) Massages and related therapies shall only be performed by persons holding a valid massage practitioner license issued by the city.

(d) No establishment in the business of providing massages or related therapies may be connected by any means of ingress or egress with premises occupied by an establishment selling or dispensing alcoholic beverages, or connected by any means of ingress or egress with premises occupied by an adult-oriented establishment or adult business.

Sec. 14-255. - ~~Cause for suspension or revocation of license~~Denials, revocations and appeals.

(a) ~~A massage practitioner license shall be suspended by the city clerk if the licensee is charged with a crime which would be cause for denial of an application for the license. The suspension shall continue until the licensee is acquitted of the crime charged or such charge is dismissed.~~

Denials. If all the criteria as outlined in this article are not satisfied, the city clerk shall deny the application for a massage practitioners license.

Revocations. If at any time the licensee fails to comply with the requirements of this article; or makes a false statement in their application; or at any time fails to meet those qualifications required to obtain a license, the license may be revoked.

(b) ~~A massage practitioner license shall be revoked by the city clerk if the licensee:~~

~~(1) Engages in the business of providing massages or related therapies while his license is suspended;~~

~~(2) Made a material false statement in his application for a license; or~~

~~(3) Is convicted of any crime which would be cause for denial of an application for the massage practitioner license.~~

Appeals.

(a) An applicant claiming a factual or clerical error must provide any relevant document to the city clerk at which time the city clerk, upon verification, may reverse the license denial.

(b) The city council may consider appeals of an applicant whose application for a massage practitioner license has been denied by the city clerk. The city council may, for good cause, waive compliance with the requirements of 14-253(c), except that the city council will not consider an appeal if the reason for the denial is a conviction for a sexual offense or for a felony drug offense within the time indicated in section 14-253(c) or if the applicant has more than one conviction for offenses listed in section 14-253(c)(1)-(6) within the time indicated.

~~(c) The revocation period shall be for six months for a first time revocation. The revocation period for a second revocation shall be one year. The revocation period for any additional revocations shall be five years. After the revocation period has elapsed, the licensee must request reinstatement and, if otherwise qualified, shall have his license reinstated.~~

Sec. 14-256. – Fees Reserved.

~~The fee for a massage practitioner license is set forth in the city's schedule of fees and charges for services.~~

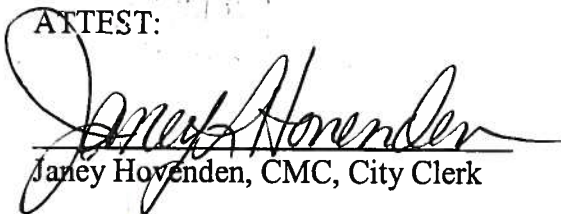
SECTION 2. That the effective date of this Ordinance shall be the 26th day of October 2013.



John Eberhart, City Mayor

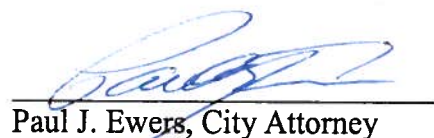
AYES: Matherly, Hilling, Walley, Staley, Gatewood, Eberhart
NAYS: None
ABSENT: None
ADOPTED: October 21, 2013

ATTEST:



Janey Hovenden, CMC, City Clerk

APPROVED AS TO FORM:



Paul J. Ewers, City Attorney