

ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS ^[58]

⁽⁵⁸⁾ **Editor's note**— Ord. No. 01-013, § 1, adopted October 23, 2001, amended the Code by repealing former art. 1, §§ 5-3-1—5-3-3, and adding a new art. 1, §§ 5-3-1—5-3-14, to read as herein set out. Former art. 1 pertained to public baths, massage parlors, and massagists; and derived from the Code of 1961, §§ 53.011—53.013. Subsequently, Ord. No. 05-020, § 22, adopted November 22, 2005, amended the Code by renaming Art. 1. Formerly, Art. 1 was entitled "Massage Establishments."

[Sec. 5-3-1. - Findings and purpose.](#)

[Sec. 5-3-2. - Definitions.](#)

[Sec. 5-3-3. - Operator's permit required.](#)

[Sec. 5-3-4. - Application for operator's permit.](#)

[Sec. 5-3-5. - Operator's permit issuance and denial; conditions of approval.](#)

[Sec. 5-3-6. - Massage technician permit.](#)

[Sec. 5-3-7. - Application for massage technician permit.](#)

[Sec. 5-3-8. - Massage technician permit issuance and denial; conditions of approval.](#)

[Sec. 5-3-9. - Temporary permits.](#)

[Sec. 5-3-10. - Off-premises massages.](#)

[Sec. 5-3-11. - Requirements of operation.](#)

[Sec. 5-3-12. - Changes of business.](#)

[Sec. 5-3-13. - Exemption; existing permittees.](#)

[Sec. 5-3-14. - Suspension, revocation, denial and appeal.](#)

Sec. 5-3-1. - Findings and purpose.

The Board of Supervisors finds and declares as follows:

- (1) The permit requirements and restrictions imposed by this Article are reasonably necessary to protect the health, safety and welfare of the citizens of the County of Orange.
- (2) The County of Orange is authorized, by virtue of the State Constitution and Section 51030 of the Government Code, to regulate massage establishments by imposing reasonable standards relative to the skill and experience of massage operators and massage technicians and reasonable conditions on the operation of the massage establishment.
- (3) There is significant risk of injury to massage clients by improperly trained and/or undereducated massage technicians and this Article provides reasonable safeguards against injury and economic loss.
- (4) There is opportunity for acts of prostitution and other unlawful sexual activity to occur in massage establishments. The establishment of reasonable standards for issuance of permits and restrictions on operations will serve to reduce the risk of illegal activity.

(Ord. No. 01-013, § 1, 10-23-01)

Sec. 5-3-2. - Definitions.

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section govern the construction, meaning, and application of words and phrases used in this Article.

- (1) *Board of Supervisors* means the Board of Supervisors of the County of Orange.
- (2) *Chair massage* means a massage as defined below where the patron is fully clothed and in a public or semi-public area while receiving the massage, and where the external parts of the body which are massaged are limited to the head, neck, back and/or arms.
- (3) *County Executive Officer* means the County Executive Officer of the County of Orange, or his/her designated representative.
- (4) *Conviction* or *convicted* means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
- (5) *Customer area* means any area open to customers of the establishment.
- (6) *Employee* as used in this Article shall include independent contractors and unpaid volunteers. The term "employ" shall include using or allowing services to be provided by an independent contractor or unpaid volunteer.
- (7) *Health department* means the Health Care Agency of the County of Orange.
- (8) *Manager* means the person(s) designated by the operator of the massage establishment to act as the representative or agent of the operator in managing day-to-day operations with the same liabilities and responsibilities. Evidence of management includes, but is not limited to, evidence that the individual has power to direct or hire and dismiss employees, control hours of operation, create policy or rules or purchase supplies. A manager may also be an owner.
- (9) *Massage* means any method of treating the external parts of the body for remedial, hygienic, relaxation or any other reason or purpose, whether by means of pressure or friction against, or stroking, kneading, tapping, pounding, vibrating, rubbing or other manner of touching external parts of the body with the hands, with or without the aid of any mechanical or electrical apparatus or appliance or with or without supplementary aids such as rubbing alcohol, liniment, antiseptic, oil, powder, cream, ointment or other similar preparations commonly used in this practice.
- (10) *Massage establishment* means any business conducted within the County of Orange where any person, firm, association, partnership, corporation, or combination of individuals engages in, conducts, carries on or permits to be conducted or carried on, for money or any other consideration, administration to another person of a massage, bath or health treatment involving massages or baths. The term "massage establishment" is intended to include any enterprise which has as its primary business activity the providing of massage services.
- (11) *Massage technician* means any person, including a manager, operator or owner of a massage establishment, who administers to another person a massage in exchange for anything of value whatsoever. The terms "massage therapist" and "massage practitioner" are included within this definition for purposes of this Article.
- (12) *Operator* means the person signing the operator's permit application as required pursuant to

TITLE 5 - BUSINESS AND SPECIAL LICENSES, REGULATIONS
Division 3 - SPECIFIC ADDITIONAL LICENSE OR PERMIT REQUIREMENTS AND BUSINESS REGULATIONS
ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

section 5-3-4 of this Article and whose name appears on the operator's permit as the person responsible for the operations of the massage establishment.

(13) *Owner* means any person or entity having an ownership interest in the massage establishment.

(14) *Permit* means and includes the permit required pursuant to the provisions of this Article to operate or manage a massage establishment, to perform the activities of a massage technician and/or to perform off-premises massages.

(15) *Person* means any natural person, corporation, partnership, firm, association or other group or combination of individuals acting as an entity.

(16) *Recognized school of massage* means any school or institution of learning which teaches, through state certified instructors, the theory, ethics, practice, profession, or work of massage, which school or institution complies with California Education Code section 94900, and which requires a resident course of study before the student shall be furnished with a diploma or certificate of graduation. Schools offering a correspondence course not requiring actual attendance shall not be deemed a recognized school of massage.

(17) *Sheriff* means the Sheriff of the County of Orange, or his/her designated representative.

(Ord. No. 01-013, § 1, 10-23-01; Ord. No. 05-020, § 23, 11-22-05)

Sec. 5-3-3. - Operator's permit required.

(a) No person shall operate a massage establishment within the County of Orange without first obtaining an operator's permit pursuant to this Article. The operator's permit required by this Article shall be in addition to any other license or permit required by this Code.

(b) The Board of Supervisors shall establish, and from time to time may amend, the fees for the administration of this Article. The Board of Supervisors shall also establish a Health Services Fee Schedule prescribing annual fees to be paid by the operator of each massage establishment, such fees to be paid directly to the County of Orange Health Department. Fees required by this Article shall be in addition to any required under any other provision of this Code.

(Ord. No. 01-013, § 1, 10-23-01; Ord. No. 05-020, § 24, 11-22-05)

Sec. 5-3-4. - Application for operator's permit.

(a) Any person desiring an operator's permit for a massage establishment shall file a written application on the required form with the Sheriff who shall then conduct an investigation once the application is complete. The application shall be accompanied by the appropriate filing fee established by the Board of Supervisors. The application shall be completed and signed by the owner of the proposed massage establishment, if a sole proprietorship; one (1) general partner, if the owner is a partnership; one (1) officer or one (1) director, if the owner is a corporation; and one (1) participant, if the owner is a joint venture. The application does not authorize operation of a massage establishment unless and until such operator's permit has been approved as provided in section 5-3-5. The application shall be deemed complete if it contains or is accompanied by the following information:

(1) A description of the type of ownership of the business (i.e., whether by individual, partnership, corporation or otherwise). If the applicant is a corporation, the name of the

TITLE 5 - BUSINESS AND SPECIAL LICENSES, REGULATIONS
Division 3 - SPECIFIC ADDITIONAL LICENSE OR PERMIT REQUIREMENTS AND BUSINESS REGULATIONS
ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

corporation shall be set forth exactly as shown in its articles of incorporation or charter together with the state and date of incorporation and the names and residence addresses of each of its current officers and directors, and of each stockholder holding more than five (5) percent of the stock of that corporation, such stockholders to be listed in descending order based upon their percentage ownership interest in the corporation. If the applicant is a partnership, the application shall set forth the name and residence address of each of the partners, including limited partners. If the applicant is a limited partnership, it shall attach a copy of its certificate of limited partnership filed with the California Secretary of State to the application. If one (1) or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The applicant corporation or partnership shall designate one (1) of its officers or general partners to act as its responsible managing officer. Such designated person shall complete and sign all application forms required for an individual applicant under this Article, but only one (1) application fee shall be charged. Such responsible managing officer must at all times meet all of the requirements set forth in this section, or the operator's permit shall be suspended until a responsible managing officer who meets all such requirements is designated. If no such person is named within ninety (90) days, the operator's permit shall be deemed canceled and a new application for an operator's permit, accompanied with the appropriate filing fee, must be filed. The managing officer may be different from the manager or managing employee of the massage establishment described in subsection (a)(5) of this section.

(2) A detailed description of all services to be provided at the massage establishment. If the list of services required to be posted pursuant to section 5-3-11(a)(2) of this Article will be in any language other than English, such list must accompany the application for the operator's permit. Any changes to such list after the issuance of the operator's permit must be submitted to the Sheriff within ten (10) days after such changes are made.

(3) The precise name under which the massage establishment business is to be conducted.

(4) The complete address and all telephone numbers of the massage establishment.

(5) A complete current list of the names and residence addresses of all proposed massage technicians and other employees in the massage establishment with a description of the job duties or function of each, and the name and residence addresses of the manager or managing employee proposed to be principally in charge of the operation of the massage establishment.

(6) A description of any other business operated on the same premises, or within the County of Orange or the State of California, which is owned or operated by the applicant.

(7) The following personal information concerning the applicant:

- a. Full complete name and all aliases used by the applicant.
- b. Current business and residence address and all previous business and residential addresses for ten (10) years immediately preceding the present address of the applicant, and the inclusive dates for each such address.
- c. Acceptable proof that the applicant is at least eighteen (18) years of age.
- d. Height, weight, color of hair and eyes, and gender.
- e. Three (3) front faced portrait photographs at least two (2) inches by two (2) inches in

TITLE 5 - BUSINESS AND SPECIAL LICENSES, REGULATIONS
Division 3 - SPECIFIC ADDITIONAL LICENSE OR PERMIT REQUIREMENTS AND BUSINESS REGULATIONS
ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

size.

- f. The applicant's complete business, occupation and employment history for ten (10) years preceding the date of application, including, but not limited to, the massage or similar business history and experience of the applicant.
 - g. The complete permit history of the applicant including, but not limited to massage or similar business; whether such person has ever had any permit or license issued by any agency, board, city, county, territory or state; the date of issuance of such a permit or license; whether the permit or license was denied, revoked or suspended; or whether a vocational or professional license or permit was denied, revoked or suspended, and the reason(s) therefor.
 - h. All criminal convictions, including pleas of nolo contendere, within the last ten (10) years, including those dismissed or expunged pursuant to Penal Code section 1203.4, but excluding minor traffic violations, and the date and place of each such conviction and reason and sentence therefor.
 - i. A complete set of fingerprints taken by the Sheriff and the results of the fingerprint inquiry including information requested from outside law enforcement agencies.
- (8) The name and address of the owner and lessor of the real property upon or in which the business is to be conducted. In the event the applicant is not the legal owner of the property, the application must be accompanied by a copy of the lease and a notarized acknowledgment from the owner of the property that a massage establishment will be located on his/her/its property.
- (9) A site plan depicting the building and/or unit proposed for the massage establishment and a dimensional interior floor plan depicting how the massage establishment will comply with all applicable requirements of this Article.
- (10) The name and address of any massage establishment or other business wherein massages are administered which is owned or operated by any person whose name is required to be given pursuant to this Article.
- (11) The names, current business and residence addresses, telephone numbers and written statements of at least three (3) bona fide permanent residents of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the County of Orange, then the State of California, and lastly from the rest of the United States. These references must be persons other than relatives and business associates.
- (12) Authorization for the County, its agents and employees to seek verification of the information contained in the application.
- (13) Such other identification and information as the Sheriff may require in order to discover the truth of the matters herein specified and as required to be set forth in the application.
- (14) A statement in writing and dated by the applicant that he/she/it certifies under penalty of perjury that all information contained in the application is true and correct.
- (15) If, during the term of a permit, any of the information submitted on the original or renewal application changes, the operator shall notify the Sheriff of such change within ten (10) business days thereafter, in writing.

TITLE 5 - BUSINESS AND SPECIAL LICENSES, REGULATIONS
Division 3 - SPECIFIC ADDITIONAL LICENSE OR PERMIT REQUIREMENTS AND BUSINESS REGULATIONS
ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

(b) Each operator and the operator's designated manager(s) must pass a written examination dealing with the requirements of this Article every thirty-six (36) months to ensure a complete understanding of the operator's and manager's duties prior to the issuance of the operator's permit. A score of seventy (70) percent or better is required on each section of the written examination. An applicant who fails to pass the examination shall not be eligible to take another examination until sixty (60) days after the previous examination. An applicant who fails to pass upon a second attempt, shall not again be eligible until six (6) months thereafter. The examination will be administered in the English language. In the event the applicant requires that the ordinance examination be given in another language, the applicant must, on his/her own, make arrangements with a court certified, and Orange County Sheriff approved, interpreter to interpret the examination. Proof of valid court certification must be provided to the Sheriff or his or her designee no less than five (5) days prior to the administration of the examination.

(Ord. No. 01-013, § 1, 10-23-01; Ord. No. 05-009, § 1, 5-24-05; Ord. No. 05-020, § 25, 11-22-05)

Sec. 5-3-5. - Operator's permit issuance and denial; conditions of approval.

(a) Upon receipt of a completed written application for a permit as defined in section 5-3-4, the Sheriff shall conduct an investigation to ascertain whether such permit should be issued as requested. The Sheriff shall approve, conditionally approve or deny the application within sixty (60) days of receipt of a completed application. The sixty-day period may be continued for an additional thirty (30) days if necessitated by the occurrence of events beyond the control of the Sheriff. The Sheriff shall issue such permit as requested, unless the investigation of the application results in any of the following findings:

(1) The applicant, if an individual, or any of the officers or directors of the corporation, if the applicant is a corporation; or a partner, if the applicant is a partnership, or any person proposed to be or employed in the massage establishment, has, within ten (10) years preceding the date of the application either:

- a. Been convicted of a violation of California Penal Code sections 266h, 266i, 314, 315, 316, 318, subsections (a) or (b) of Penal Code section 647 or any other provision of law pursuant to which a person is required to register under the provisions of Penal Code section 290, or when the prosecution accepted a plea of guilty or nolo contendere to a charge of a violation of California Penal Code section 415 or any lesser included or lesser related offense, in satisfaction of, or as a substitute for, any of the previously listed crimes;
- b. Been convicted of a violation of Health and Safety Code section 11550 or any offense involving the illegal sale, distribution or possession of a controlled substance specified in Health and Safety Code section 11054, 11055, 11056, 11057 or 11058;
- c. Been convicted of any offense in any other state which is the equivalent of any of the above-mentioned offenses;
- d. Been subjected to a permanent injunction against the conducting or maintaining of a nuisance pursuant to sections 11225 through 11235 of the California Penal Code, or any similar provisions of law in a jurisdiction outside the State of California;
- e. Engaged in conduct which would constitute an offense as described in paragraph a of this subsection;
- f. Been convicted of an act involving dishonesty, fraud, deceit or moral turpitude or an act of violence, which act or acts are related to the qualifications, functions or duties of the

TITLE 5 - BUSINESS AND SPECIAL LICENSES, REGULATIONS
Division 3 - SPECIFIC ADDITIONAL LICENSE OR PERMIT REQUIREMENTS AND BUSINESS REGULATIONS
ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

operator; or

g. Had a massage operator or massage technician permit or other similar license or permit denied, suspended or revoked for cause by a licensing authority or by any city, county, or state.

(2) The applicant has made a false, misleading or fraudulent statement or omission of fact in the permit application process.

(3) The application does not contain all of the information required by section 5-3-4

(4) The massage establishment as proposed by the applicant does not comply with all applicable laws, including, but not limited to, health, zoning, fire and safety requirements and standards.

(5) The applicant has not satisfied the requirements of this Article in the time specified.

(6) If the application is denied due to a false, misleading or fraudulent statement in the application, the applicant may not reapply for a period of six (6) months from the date the application was denied.

(b) Each operator and manager of any massage establishment shall comply with the following requirements:

(1) Except to the extent required, in writing, by a state licensed medical practitioner, no massage technician, or employee shall massage the genitals, gluteal fold, or anal area of any patron or the breasts of any female patron, nor shall any operator or manager of a massage establishment allow or permit such massage. No massage operator or designated manager while performing any task or service associated with the massage business, shall be present in any room with another person unless the person's genitals, gluteal fold, anus, or, in the case of female, her breast(s), are fully covered.

(2) No person granted a permit pursuant to this Article shall use any name or conduct business under any designation not specified in his or her permit.

(3) All massage establishments required to obtain a permit under this Article shall have a manager on the premises at all times the massage establishment is open. The operator of each massage establishment shall file a statement with the Sheriff designating the person or persons with power to act as a manager. The operator and/or on duty manager shall post, on a daily basis, the name of each on duty manager and each on duty technician in a conspicuous public place in the lobby of the massage establishment. The operator, or the manager in the operator's absence, shall be responsible for ensuring compliance with this Article.

(4) No massage establishment shall be open for business without having at least one massage technician holding a current valid permit for the specific establishment on the premises, and on duty, at all times when said establishment is open.

(5) The operator and/or designated manager(s) shall ensure the massage establishment permit and the massage technician permit for each on-duty massage technician is conspicuously displayed in a public place in the lobby and that each massage technician is wearing the photo identification card required by subsection (b)(3) of section 5-3-8 at all times when in the massage establishment. Such identification shall be provided to County regulatory officials upon demand.

TITLE 5 - BUSINESS AND SPECIAL LICENSES, REGULATIONS
Division 3 - SPECIFIC ADDITIONAL LICENSE OR PERMIT REQUIREMENTS AND BUSINESS REGULATIONS
ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

(6) An operator and/or on duty manager shall be responsible for the conduct of all employees while they are on the premises. All person(s) found working in the massage establishment shall be considered employees of the operator, including independent contractors and unpaid volunteers. Any act or omission of any employee constituting a violation of the provisions of this Article shall be deemed the act or omission of the operator for purposes of determining whether the operator's permit shall be revoked, suspended, denied or renewed.

(7) No operator or manager shall employ any person as a massage technician who does not have a valid massage technician permit issued pursuant to this Article. Every operator or manager shall report to the Sheriff any change of employees, whether by new or renewed employment, discharge or termination, on the form and in the manner required by the Sheriff. The report shall contain the name of the employee and the date of hire or termination. The report shall be made within five (5) days of the date of hire or termination. The operator shall deliver the permit and photo identification card of any massage technician no longer employed by the operator to the Sheriff within five (5) days.

(8) All persons employed in the massage establishment shall be fully clothed at all times. Clothing shall be of a fully opaque, nontransparent material and shall provide complete covering from mid-thigh to three (3) inches below the collar bone.

(9) The operator and/or on duty manager shall maintain a register of all employees, showing the name, nicknames and aliases used by the employee, home address, age, birth date, gender, height, weight, color of hair and eyes, telephone numbers, social security number, date of employment and termination, if any, and duties of each employee. The above information on each employee shall be maintained in the register on the premises for a period of two (2) years following termination. The operator and/or manager on duty shall make the register of employees available immediately for inspection by the Sheriff upon demand of a representative of the Sheriff at all reasonable times.

(10) Each operator shall provide the Sheriff with evidence of the insurance required by Section 5-3-11(b)(12) prior to the date of issuance of the permit.

(11) The operator shall comply with all provisions of this Article and any applicable provisions of this Code.

(Ord. No. 01-013, § 1, 10-23-01; Ord. No. 05-009, § 2, 5-24-05; Ord. No. 05-020, § 26, 11-22-05)

Sec. 5-3-6. - Massage technician permit.

No person shall perform or administer a massage, or advertise to provide massage services in the County of Orange, unless such person has in effect a valid massage technician permit issued pursuant to sections 5-3-7 and 5-3-8 of this Code. A massage technician shall comply with the requirements of sections 5-3-7 and 5-3-8. The possession of a valid massage operator's permit does not authorize the permit holder to perform work for which a massage technician permit is required.

(Ord. No. 01-013, § 1, 10-23-01; Ord. No. 05-009, § 3, 5-24-05; Ord. No. 05-020, § 27, 11-22-05)

Sec. 5-3-7. - Application for massage technician permit.

(a) Any person desiring a massage technician permit shall file a written application on the required form with the Sheriff who shall then conduct an investigation once the application is complete. The

TITLE 5 - BUSINESS AND SPECIAL LICENSES, REGULATIONS
Division 3 - SPECIFIC ADDITIONAL LICENSE OR PERMIT REQUIREMENTS AND BUSINESS REGULATIONS
ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

application shall be accompanied by the appropriate filing fee established by the Board of Supervisors. The application shall be deemed complete if it contains or is accompanied by the following information:

- (1) A statement of the exact location at which the applicant will be working as a massage technician, including the full street address and all telephone numbers associated with said location, and the following personal information concerning the applicant:
 - a. Full complete name, and all aliases used by the applicant, along with complete residence address and telephone;
 - b. All previous residential addresses for ten (10) years immediately preceding the current address of the applicant. Any applicant born outside of the United States shall provide proof of legal residence status;
 - c. Acceptable written proof that the applicant is at least eighteen (18) years of age;
 - d. Height, weight, color of hair and eyes, and gender;
 - e. Three (3) front faced portrait photographs at least two (2) inches by two (2) inches in size;
 - f. The business, occupation and employment history of the applicant for the ten (10) years immediately preceding the date of the application;
 - g. The complete permit history of the applicant and whether such person has ever had any license or permit, issued by any agency, board, city, or other jurisdiction, denied, revoked or suspended and the reasons therefor.
- (2) All criminal convictions, including pleas of *nolo contendere*, within the last ten (10) years, including those dismissed or expunged pursuant to Penal Code section 1203.4, but excluding minor traffic infractions, and the date and place of each such conviction and reason and sentence therefor.
- (3) The names, current business and residence addresses and written statements of a least three (3) bona fide permanent residents of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the County of Orange, then the State of California, and lastly from the rest of the United States. These references must be persons other than relatives and business associates.
- (4) A complete set of fingerprints taken by the Sheriff and the results of the fingerprint inquiry including information requested from outside law enforcement agencies.
- (5) Such other information and identification as the Sheriff may require in order to discover the truth of the matters herein specified and as required to be set forth in the application.
- (6) Authorization for the County, its agents and employees to seek verification of the information contained in the application.
- (7) A statement in writing, and dated, by the applicant that he or she certifies under penalty of perjury that all information contained in the application is true and correct.
- (8) If, during the term of a permit, any of the information submitted on the original or renewal

TITLE 5 - BUSINESS AND SPECIAL LICENSES, REGULATIONS
Division 3 - SPECIFIC ADDITIONAL LICENSE OR PERMIT REQUIREMENTS AND BUSINESS REGULATIONS
ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

application changes, the permit holder shall notify the Sheriff of such change within ten (10) business days thereafter, in writing.

(b) Each applicant must furnish an original or certified copy of a diploma or certificate and certified transcript of graduation for completion of 500 hours of instruction from an approved or recognized school of massage, wherein the method, practice, profession, theory, ethics, anatomical and physiological knowledge and practice of massage is taught by State certified instructors. The applicant must also supply a course description, an outline of material covered, and a letter to the County from the school administrator verifying completion and providing evidence of the accreditation or other certification, approval or recognition of the school.

(1) The Sheriff may consider an applicant's study of massage completed outside the State of California if proof of completion from a formalized course of study in massage practice, anatomy, and/or physiology is provided with the application. Proof of completion shall include dates of study and the name, address and phone number of the school attended.

(2) Any outside course of study submitted for approval shall meet the State of California's Office of Post-secondary Education's minimum requirements and be for completion of five hundred (500) hours of on-premises training.

(c) The applicant must take and pass a written examination prior to the issuance of the massage technician permit. The examination shall meet the following requirements:

(1) The examination shall fairly determine the ability of the applicant to perform the work which the applicant will be authorized to do by the permit applied for, and shall include, but is not limited to, the following subjects: anatomy, physiology, pathology, hygiene, contraindications, sanitation, massage theory, and ethics of massage practice.

(2) Qualified persons shall assist in the preparation of the examination. A qualified person shall have at least five (5) years of licensing or practice in his or her health care field and shall include licensed health care professionals, such as doctors, chiropractors, massage therapists, massage school instructors, physical therapists and individuals who have pursued required courses in and graduated from a recognized school of massage and received a diploma from the massage school.

(3) The Sheriff shall establish standards and procedures governing the administration and grading of all examinations and shall exercise such supervision as may be necessary to ensure compliance therewith.

(4) The examination shall be administered in the English language. In the event that the applicant requires that the examination be given in another language, the applicant must, on his or her own, make arrangements with a court certified and Orange County Sheriff approved interpreter to interpret the examination. Proof of valid court certification must be provided to the Sheriff or his or her designee no less than five (5) days prior to the administration of the examination.

(5) An applicant who fails to pass the examination shall not be eligible to take another examination until sixty (60) days after the previous examination. An applicant who fails to pass upon a second attempt, shall not be again eligible until six (6) months thereafter. An additional processing fee shall be required to be filed with the Sheriff prior to each re-examination in accordance with the fee resolution.

(Ord. No. 01-013, § 1, 10-23-01; Ord. No. 05-009, § 4, 5-24-05)

Sec. 5-3-8. - Massage technician permit issuance and denial; conditions of approval.

(a) Upon receipt of a completed written application for a permit as defined in section 5-3-7, the Sheriff shall conduct an investigation to ascertain whether such permit should be issued as requested. The Sheriff shall approve, conditionally approve or deny the application within sixty (60) days of receipt of a completed application. The sixty-day period may be continued for an additional thirty (30) days if necessitated by the occurrence of events beyond the control of the Sheriff. The Sheriff shall issue such permit as requested, unless the investigation of the application results in any of the following findings:

(1) The applicant has within ten (10) years preceding the date of the application been convicted of any of the following:

a. Violation of Penal Code sections 266h, 266i, 314, 315, 316, 318, subsections (a) or (b) of Penal Code section 647 or that the applicant is required to register under the provisions of Penal Code section 290, or when the prosecution accepted a plea of guilty or *nolo contendere* to a charge of a violation of California Penal Code section 415 or any lesser included or lesser related offense in satisfaction of, or as a substitute for, any of the previously listed crimes.

b. Violation of Health and Safety Code section 11550 or any offense involving the illegal sale, distribution or possession of a controlled substance specified in Health and Safety Code sections 11054, 11055, 11056, 11057 or 11058, or

c. Any offense in any other state which is the equivalent of any of the above-mentioned offenses.

(2) The applicant has engaged in conduct which would constitute an offense as described in the preceding subsection (1) above, within ten (10) years immediately prior to the filing of any application.

(3) The applicant has been convicted of an act involving dishonesty, fraud, deceit or moral turpitude or an act of violence, which act or acts are substantially related to the qualifications, functions or duties of a massage technician.

(4) The applicant has had a massage operator's permit or massage technician's permit or other similar license or permit denied, suspended or revoked for cause by a licensing authority or by any city, county or state within ten (10) years prior to the date of the application.

(5) The applicant has made a false, misleading or fraudulent statement or omission of fact to the County in the permit application process.

(6) The application does not contain the information required by section 5-3-7

(7) The applicant has not satisfied the requirements of this Article in the time specified.

(8) If the application is denied due to a false, misleading or fraudulent statement in the application, the applicant may not reapply for a period of six (6) months from the date the application was denied.

(b) All massage technicians shall comply with the following conditions and any other conditions

TITLE 5 - BUSINESS AND SPECIAL LICENSES, REGULATIONS
Division 3 - SPECIFIC ADDITIONAL LICENSE OR PERMIT REQUIREMENTS AND BUSINESS REGULATIONS
ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

specified by the Sheriff on issuance of the massage technician's permit.

- (1) Except to the extent required, in writing, by a state licensed medical practitioner, no massage technician, massage technician aide, or employee shall massage the genitals, gluteal fold, or anal area of any patron or the breast(s) of any female patron. No massage technician, massage technician aide or employee, while performing any task or service associated with the massage business, shall be present in any room with another person unless the person's genitals, gluteal fold, anus, or, in the case of female, her breast(s), are fully covered.
- (2) No massage technician shall massage any patron unless the person's genitals, gluteal fold, anus, and in the case of a female, her breast(s), are fully covered at all times while the technician or other employee is present in the same room as the patron.
- (3) The massage technician shall wear a photo identification card prepared and issued by the County at all times when present in the massage establishment. Such identification shall be provided to the Sheriff upon demand. If a massage technician changes his or her business address, he or she shall, prior to such change, pay the appropriate fee and obtain from the Sheriff a new photo identification card.
- (4) Massage technicians shall not perform any massage at any location other than the location specified on the permit, unless performing an off-premises massage conforming to the requirements of section 5-3-10 hereof.
- (5) While on duty, the massage technician shall not use any name other than that specified on the photo identification card.
- (6) Massage attendants shall be fully clothed at all times. Clothing shall be of a fully opaque, non-transparent material and provide complete covering from mid-thigh to three (3) inches below the collar bone.
- (7) The massage technician consents to the inspection of the massage establishment by the County's Fire Department, the Sheriff and the Health Department for the purpose of determining that the provisions of this Article or other applicable laws or regulations are met. The massage technician consents to the inspection of the occupied massage rooms by the Sheriff for the purpose of determining that the provisions of this Article are met upon occurrence of any of the conditions described in section 5-3-11(b)(17) which would require the posting of the notice to all patrons.

(Ord. No. 01-013, § 1, 10-23-01; Ord. No. 05-009, § 5, 5-24-05)

Sec. 5-3-9. - Temporary permits.

- (a) Upon request of an applicant for an operator's permit or a massage technician permit, the Sheriff may issue a temporary permit provided all of the following conditions are met:
 - (1) The applicant has submitted a completed application for the permit as required under section 5-3-4 or 5-3-7 of this Article;
 - (2) The applicant meets all the applicable education/training requirements for issuance of a permit under this Article;
 - (3) The applicant has passed all written examinations required for issuance of the permit under

TITLE 5 - BUSINESS AND SPECIAL LICENSES, REGULATIONS
Division 3 - SPECIFIC ADDITIONAL LICENSE OR PERMIT REQUIREMENTS AND BUSINESS REGULATIONS
ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

this Article;

(4) The Sheriff has conducted an investigation as authorized under this Article, and is waiting for results of the fingerprint identification and criminal history report from the California Department of Justice; and

(5) Without considering any information which may be received in the fingerprint identification and criminal history report from the Department of Justice, the Sheriff has not made any of the findings set forth in sections 5-3-5(a) or 5-3-8(a) which would constitute grounds for denial of the permit.

(b) Unless revoked earlier pursuant to subsection (c) below, the temporary permit shall be valid for forty-five (45) days or until such time as the Sheriff renders a decision on the application for the operator's or massage technician permit, whichever is sooner.

(c) The temporary permit may be revoked at any time without notice if the Sheriff makes any of the following findings:

(1) The fingerprint identification and criminal history report submitted by the Department of Justice contains information upon which the Sheriff can make any of the findings set forth in sections 5-3-5(a) or 5-3-8(a) which would constitute grounds for denial of the permit; or

(2) The applicant has violated any of the provisions of this Article.

(d) Upon a determination by the Sheriff that grounds exist for revocation of the temporary permit, the Sheriff shall serve the applicant, by certified mail, return receipt requested, addressed to the business and residence address of the applicant, with a notice of revocation. The notice shall state the reasons for the revocation and the effective date of the revocation, which date shall be the date of receipt by the applicant of the notice of revocation.

(e) Upon revocation of the temporary permit, the applicant shall immediately cease and desist engaging in activities previously permitted under the temporary permit.

(Ord. No. 01-013, § 1, 10-23-01)

Sec. 5-3-10. - Off-premises massages.

(a) No massage performed or administered for money or other consideration at a location other than a massage establishment holding a permit issued in accordance with this Article (hereinafter an "off-premises massage") shall be administered in the County of Orange except in strict compliance with the requirements of this section.

(b) No person shall perform or administer an off-premises massage as defined herein within the County of Orange without obtaining and possessing a massage technician permit under sections 5-3-7 and 5-3-8 of this Article.

(Ord. No. 01-013, § 1, 10-23-01; Ord. No. 05-009, § 6, 5-24-05)

Sec. 5-3-11. - Requirements of operation.

(a) *Facilities.*

TITLE 5 - BUSINESS AND SPECIAL LICENSES, REGULATIONS
Division 3 - SPECIFIC ADDITIONAL LICENSE OR PERMIT REQUIREMENTS AND BUSINESS REGULATIONS
ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

(1) *Signs.* All exterior signs identifying the premises as a massage establishment shall comply with the sign requirements of the County of Orange. Each operator and/or on duty manager shall display the operator's permit in a conspicuous public place in the lobby of the massage establishment. The hours of operation must be posted in the front window and clearly visible from the outside. The operator and/or on duty manager must also post, on a daily basis in a conspicuous public place in the lobby, the name of the operator and/or on duty manager as well as all on duty massage technicians.

(2) *Services list.* Each operator shall post and maintain a list of services available and the cost of such services in a conspicuous public place within the premises. No operator or responsible managing employee, shall permit, and no massage technician shall offer or perform, any service other than those posted.

(3) *Lighting.* Each operator shall provide in each room where massage is given sufficient lighting and ventilation that complies with the Uniform Building Code. The lighting in each massage room shall be at least one (1) sixty (60) watt white light bulb and shall be activated at all times while the patron is in such room or enclosure. No strobe flashing lights shall be used. No colored lights shall be used nor shall any coverings be used which change the color of the primary light source.

(4) *Bath facilities.* A minimum of one (1) toilet and one (1) separate wash basin shall be provided for patrons in each massage establishment, which basin shall provide soap and hot running water at all times and shall be located within close proximity to the area devoted to the performing of massage services. A permanently installed soap dispenser, filled with soap, and a single service towel dispenser shall be provided at the restroom handwash sink. No bar soap shall be used. A trash receptacle shall be provided in each toilet room. Showers shall be provided, and no bathtubs shall be allowed.

(5) *Separate rooms.* If male and female patrons are to be treated simultaneously at the same massage establishment, separate massage rooms shall be provided for male and female patrons.

(6) *Maintenance.* All facilities for the massage establishment must be in good repair and shall be thoroughly cleaned and sanitized each day the business is in operation. All walls, floors and ceilings of each restroom and shower area shall be made smooth and easily cleanable. No carpeting shall be installed in any of these areas.

(7) *Massage table or chair.* A massage table or chair shall be provided in each massage room and the massage shall be performed on this massage table or chair. The tables should have a minimum height of eighteen (18) inches. Two (2) inch thick foam pads with a minimum width of two (2) feet and a maximum width of four (4) feet may be used on a massage table and must be covered with durable, washable plastic or other waterproof material. Beds, floor mattresses and waterbeds are not permitted on the premises.

(b) *Operations.*

(1) *Equipment.* Each operator and/or on duty manager shall provide and maintain on the premises adequate equipment for disinfecting and sterilizing instruments used in massage.

(2) *Inspections.* The operator and/or on duty manager consents to the inspection of the massage establishment by the County's Fire Department, the Sheriff, Code Enforcement Officers and the County Health Department for the purpose of determining that the provisions of this Article or other applicable laws or regulations are met.

TITLE 5 - BUSINESS AND SPECIAL LICENSES, REGULATIONS
Division 3 - SPECIFIC ADDITIONAL LICENSE OR PERMIT REQUIREMENTS AND BUSINESS REGULATIONS
ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

- a. The County's Fire Department, the Sheriff, code enforcement officers and the County Health Department may, from time to time, make an inspection of each massage establishment for the purpose of determining that the provisions of this Article, State law or other applicable laws or regulations are met. Routine inspections shall not occur more than twice a year, unless violations are found or complaints are received. Criminal investigations may be conducted as directed by the Sheriff. The Sheriff may inspect the occupied massage rooms for the purpose of determining that the provisions of this Article are met upon occurrence of any of the conditions described in section 5-3-11(17) which would require the posting of the notice to all patrons. During an inspection, the Sheriff may verify the identity of all on-duty employees.
 - b. Inspections of the massage establishment shall be conducted during business hours:
 - c. A person who operates a massage establishment or his or her agent, servant or employee commits a violation of this Article if he or she refuses to permit a lawful inspection of the premises by a representative of the Sheriff at anytime it is occupied or open for business.
- (3) *Linen.* Common use of towels or linen shall not be permitted. Towels and linen shall be laundered or changed promptly after each use. Separate enclosed cabinets shall be provided for the storage of clean and soiled linen and shall be plainly marked "clean linen" and "soiled linen" and shall have doors or covers.
- (4) *Residing in establishment prohibited.* No person or persons shall be allowed to live, reside or dwell inside the massage establishment at any time. No food of any kind shall be prepared for sale or sold in the establishment unless an appropriate food vending permit is granted by the County of Orange.
- (5) *Alcoholic beverages/drugs.* No person shall enter, be in, or remain in, any part of a massage establishment holding a permit issued under this Article while in possession of, consuming, using or under the influence of, any alcoholic beverage or controlled substance. The owner, operator and manager shall be responsible to ensure that no such person shall enter or remain upon the massage establishment. Service of alcoholic beverages shall not be permitted.
- (6) *Recordings.* No electrical, mechanical or artificial device shall be used by the operator or any employee of the massage establishment for audio and/or video recording or for monitoring the performance of a massage, or the conversation or other sounds in the massage rooms without the knowledge and consent of the patron.
- (7) *Roster.* The owner, operator or on-duty manager of the massage establishment shall keep a complete and current list of the names and residence addresses of all massage technicians and employees of the massage establishment and the name and residence addresses of the manager or managing employee purported to be principally in charge of the operation of the massage establishment. This roster shall be kept on the massage establishment premises and be available for inspection by officials charged with enforcement of this Article.
- (8) *Coverings.* Each massage establishment shall provide to all patrons clean, sanitary and opaque coverings capable of covering the patrons' genitals, gluteal fold, anus and female breast(s). No common use of such coverings shall be permitted and re-use is prohibited unless laundered or otherwise sanitized between each use.

TITLE 5 - BUSINESS AND SPECIAL LICENSES, REGULATIONS
Division 3 - SPECIFIC ADDITIONAL LICENSE OR PERMIT REQUIREMENTS AND BUSINESS REGULATIONS
ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

(9) *Records.* Every person operating a massage establishment shall keep a record of the dates and hours of each treatment or service, the name and address of the patron, the location of the premises where the treatment or services is provided for any off-premises massage, the name of technician administering such service, a description of the treatment or service rendered and the amount charged for the treatment or services rendered. A short medical history form shall be completed by the operator to determine if the patron has any communicable diseases, areas of pain, high blood pressure or any physical condition which may be adversely affected by massage. These records shall be prepared prior to administering any massage or treatment and shall be retained for a period of twenty-four (24) months after such treatment or service. These records shall be open to inspection upon demand only by officials charged with enforcement of this Article and for no other purpose. The Sheriff shall periodically inspect the records to ensure compliance with this Section. Such records shall be kept on the premises of the massage establishment for a period of two (2) years. The information furnished or secured as a result of any such records should be used only to ensure and enforce compliance with this Article or any other applicable State or Federal laws and shall remain confidential. Any unauthorized disclosure or use of such information by any officer or employee of the County of Orange shall constitute a misdemeanor.

(10) *Hours of operation.* The owner must advise the County, in writing, at the time of the application for a permit, of the business hours and, thereafter, of any changes in such hours. No person shall operate a massage establishment or administer a massage in any massage establishment or administer an off-premises massage between the hours of 10:00 p.m. and 8:00 a.m. A massage begun any time before 10:00 p.m. must nevertheless terminate at 10:00 p.m. All customers, patrons and visitors shall be excluded from the massage establishment during these hours and be advised of these hours. The hours of operation must be displayed in a conspicuous public place in the lobby within the massage establishment and in the front window clearly visible from the outside.

(11) *Advertising.* No massage establishment granted a permit under this Article shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective customers or clients that any service is available other than those services described in this Article, nor shall any massage establishment employ language in the text of such advertising that would reasonably suggest to a prospective patron that any service is available other than those services authorized by this Article.

(12) *Insurance.* No person shall engage in, conduct or carry on the business of a massage establishment unless there is on file with the sheriff, in full force and effect at all times, documents issued by an insurance company authorized to do business in the State of California evidencing that the permittee is insured under a liability insurance policy providing minimum coverage of \$100,000.00 for injury or death to one person arising out of the operation of any massage establishment and the administration of a massage.

(13) *Handicapped areas.* All massage establishments must comply with all State and Federal laws and regulations for handicapped customers.

(14) *Doors.* All front, reception, hallway or front exterior doors (except back or rear exterior doors used for employee entrance to and exit from the massage establishment) shall be kept unlocked during business hours. No massage may be given within any cubicle, room, booth or any area within a massage establishment which is fitted with a door capable of being locked, unless the only door is an exterior door.

TITLE 5 - BUSINESS AND SPECIAL LICENSES, REGULATIONS
Division 3 - SPECIFIC ADDITIONAL LICENSE OR PERMIT REQUIREMENTS AND BUSINESS REGULATIONS
ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

(15) *Access.* No person(s) other than valid permit holders under this Article and customers will be allowed beyond the front lobby, located directly inside the front door entrance during hours of operation. Any other person(s) found beyond the first interior door leading to the inside of the business including, but not limited to hallways, massage rooms, reception/business offices or lounge area will be in violation of this Article. Entry doors to any room shall not be obstructed by any means. Nothing contained in this paragraph shall prohibit any person who is an office employee of the establishment from being present in hallways, reception/business offices or other areas relating to his or her employment duties, nor prohibit any authorized repair, maintenance or service personnel from being present in areas while providing such services, except that such persons shall not be permitted in any massage room while a customer is present in such room.

(16) *Discrimination.* No massage establishment may discriminate or exclude patrons on the basis of the race, sex, religion, age or handicap.

(17) *Notices.* The Sheriff may require that the following notice be posted in the event that any employee of the massage establishment or any person who has been aided and abetted by an employee of the massage establishment has been found, after full hearing by administrative proceeding or court conviction, to have violated any of the provisions listed in section 5-3-5 or 5-3-8

NOTICE TO ALL PATRONS

THIS MASSAGE ESTABLISHMENT AND THE MASSAGE ROOMS DO NOT PROVIDE COMPLETE PRIVACY AND ARE SUBJECT TO INSPECTION BY THE ORANGE COUNTY SHERIFF WITHOUT PRIOR NOTICE.

- a. The notice set forth above shall be prepared and issued by the Sheriff.
- b. The notices shall be conspicuously posted in a location within the massage establishment that are easily visible to any person entering the premises and in each massage room. The notice shall be so posted for twelve (12) months following the determination of any such violation, or date of conviction, of any of the offenses set forth above.
- c. The requirement for posting the notice described in this section is cumulative and in addition to all other civil and criminal remedies and penalties set forth in this Article, or in the ordinances, laws, rules or regulations of the County of Orange and the State of California.

(Ord. No. 01-013, § 1, 10-23-01)

Sec. 5-3-12. - Changes of business.

(a) Every massage establishment operator shall report immediately to the Sheriff any and all changes of ownership or management of the massage establishment, including, but not limited to, changes of manager or other person principally in charge, stockholders holding more than five (5) percent of the stock of the corporation, officers and directors of the corporation, partners of the partnership, including limited partners and all changes of name, style or designation under which the business is to be conducted, and all changes of address or telephone numbers of the massage business. A change of location of any of the premises may be approved by the Sheriff provided there is compliance with all applicable regulations of the County of Orange.

TITLE 5 - BUSINESS AND SPECIAL LICENSES, REGULATIONS
Division 3 - SPECIFIC ADDITIONAL LICENSE OR PERMIT REQUIREMENTS AND BUSINESS REGULATIONS
ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

(b) No massage operator's permit may be sold, transferred or assigned by a permittee, or by operation of law, to any other person or persons. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such permit and such permit shall thereafter be null and void; provided and excepting, however, that if the permittee is a partnership and one (1) or more of the partners should die, one (1) or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such permit, and in such case, the permit, upon notification to the Sheriff, shall be placed in the name of the surviving partners. A massage operator's permit issued to a corporation shall be deemed terminated and void when five (5) percent or more of the stock of the corporation is sold, transferred or assigned after the issuance of a permit. No massage technician permit may be sold, transferred or assigned by a permittee, or any operation of law, to any other person or persons.

(c) No permit issued hereunder shall be transferable to any other person or establishment, provided, however, an additional location or change of location of a massage technician permit will be allowed upon prior written notice to the Sheriff and payment of the appropriate transfer fee.

(d) Except as provided in subsections (e) and (f) below, permits for massage operators and technicians shall be renewed on a year to year basis provided that the permittee continues to meet the requirements of this Article.

(e) Applications for the next ensuing permit shall be filed with the Sheriff before the expiration of the existing permit. Temporary permits will not be issued for renewals and renewal applications must be filed no later than sixty (60) days prior to the expiration of the permit to prevent a lapse of the permit.

(f) Renewal applications shall include such information as may be required by the Sheriff to update the information contained in the original permit application. With respect to massage technician permits, renewal applications must be accompanied with proof that the applicant has completed twelve (12) hours of continuing education from a recognized school of massage as defined in this Article. The applicant shall accompany the application for renewal with the appropriate filing fee approved by resolution of the Board of Supervisors.

(Ord. No. 01-013, § 1, 10-23-01; Ord. No. 05-009, § 7, 5-24-05)

Sec. 5-3-13. - Exemption; existing permittees.

(a) The requirements of this Article shall have no application and no effect upon, and shall not be construed as applying to, any persons designated as follows:

(1) State licensed physicians, surgeons, chiropractors (where the chiropractor is present on the premises during normal business hours and has seen and prepared or approved a treatment plan for each person receiving massage), physical therapists, osteopaths, or any registered nurse working on the premises of, and under the direct supervision of, a State licensed physician, surgeon, chiropractor or osteopath. Practical nurses, licensed vocational nurses, or other persons without qualifications as massage technicians and without first obtaining a massage technician permit pursuant to this Article, whether employed by physicians, surgeons, chiropractors or osteopaths or not, may not give massage or massage procedures.

(2) Barbers and beauticians who are duly licensed under the laws of the State of California while engaging in the practices within the scope of their licenses, except that this exception shall apply solely to the massaging of the neck, face, scalp, hands, feet and hair of the customer or client.

TITLE 5 - BUSINESS AND SPECIAL LICENSES, REGULATIONS
Division 3 - SPECIFIC ADDITIONAL LICENSE OR PERMIT REQUIREMENTS AND BUSINESS REGULATIONS
ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

(3) Persons administering a chair massage as defined in this Article, provided that the Sheriff receives a letter from the property or business owner of the location where the chair massage is to be administered stating his/her/its knowledge and approval of the chair massage, the location where the chair massage will take place, the dates and hours the chair massage will be conducted, the identity of the person(s) administering the chair massage and that only a recognized massage chair will be used. This exemption shall not apply to any business in which chair massage is other than an incidental service provided.

(4) Accredited high schools, junior colleges, colleges, or universities whose coaches and trainers are acting within the scope of their employment.

(5) Trainers of amateur, semi-professional or professional athletes or athletic teams while engaging in their training responsibilities for and with athletes; and trainers working in conjunction with a specific athletic event such as road races, track meets, triathlons, biathlons, or similar single occurrence athletic or recreational events.

(b) Commencing on the effective date of this Article, all permits are to be issued in accordance with the provisions of this Article.

(c) Existing operator's and massage technician's permits shall continue in effect until expiration.

(1) Within twelve (12) months following the effective date of this Article, all existing massage technician permit holders shall either (i) meet and comply with the requirements of section 5-3-7(b) or (ii) take and pass the test administered by the county pursuant to section 5-3-7(c). Failure of a massage technician to comply with the requirements of the preceding sentence shall render such massage technician's existing permit (including any renewal permit issued after the effective date of this Article) null and void at the expiration of said twelve-month period.

(2) Operators who have an existing and valid operator's permit on the date this ordinance becomes effective (and the managers of such operators' massage establishments) shall have twelve (12) months following the effective date of this ordinance to comply with the requirements of section 5-3-7(b). Failure of an operator, or any designated manager of such operator, to comply with the requirements of the preceding sentence shall render such operator's existing permit null and void at the expiration of said twelve month period.

(Ord. No. 01-013, § 1, 10-23-01)

Sec. 5-3-14. - Suspension, revocation, denial and appeal.

(a) *Violation and noncompliance.* The Sheriff may refuse to issue or renew a permit or may revoke or suspend an existing permit on the grounds that the applicant or permit holder has failed to comply with the permit conditions or the requirements of this Article. If a suspended permit lapses during the suspension period, a new application must be made at the end of the suspension period. In any such case, the applicant or permit holder shall have the right to appeal the decision in the time and manner set forth in this section.

(b) *Notice.* When the Sheriff concludes that grounds for denial, suspension, revocation or refusal to renew a permit exist, the Sheriff shall serve the applicant or permit holder, by certified mail, return receipt requested, addressed to the business and residence address of the applicant or permit holder, with a notice of denial or notice of intent to suspend, revoke or refuse to renew the permit (hereinafter the "Sheriff's Notice"). The Sheriff's Notice shall state the reasons for the proposed action, the effective

TITLE 5 - BUSINESS AND SPECIAL LICENSES, REGULATIONS
Division 3 - SPECIFIC ADDITIONAL LICENSE OR PERMIT REQUIREMENTS AND BUSINESS REGULATIONS
ARTICLE 1. - MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS

date of the decision, the right of the applicant or permit holder to appeal the decision, and that the decision will be final if no appeal is filed within the time permitted.

(c) *Appeal.* Any applicant or permit holder may appeal the decision of the Sheriff made pursuant to subdivision (a) herein. Said appeal shall be made by a notice of appeal consisting of a verified written declaration of the person appealing which must be received by the Clerk of the Board, with a copy to the Sheriff within thirty (30) days from the mailing date of the Sheriff's Notice. The declaration shall set forth each fact on the basis of which it is claimed that the Sheriff's action was improper. A copy of the Sheriff's Notice shall be attached to the notice of appeal. The appeal shall be heard by a Hearing Officer, who shall preside over the hearing, take evidence regarding the appeal and determine whether, on the basis of a preponderance of the evidence, the action appealed from shall be upheld. The burden of proof shall be on the person appealing the denial of an application for permit or the refusal to renew a permit. The burden of proof shall be on the Sheriff in an appeal from the revocation or suspension of a permit. The decision of the Hearing Officer shall be final.

(d) *Vested rights.* No permit granted herein shall confer any vested right to any person or business for more than the permit period. All massage operators, managers and technicians subject to this Article shall comply with the provisions of this Article as they may be amended hereafter.

(Ord. No. 01-013, § 1, 10-23-01; Ord. No. 05-009, § 8, 5-24-05)