

AN ORDINANCE OF THE COUNTY COMMISSIONER OF BARTOW COUNTY SITTING FOR COUNTY PURPOSES **FOR THE PURPOSE OF AMENDING AND READOPTING THE BARTOW COUNTY MASSAGE THERAPY ORDINANCE**; AND FOR OTHER PURPOSES AT THE REGULAR MEETING OF THE COMMISSIONER OF BARTOW COUNTY HELD ON THE 10th DAY OF OCTOBER, 2007

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**WHEREAS**, Bartow County has previously adopted a Massage Therapy Ordinance, on the 5th day of February, 1997, as amended on the 4<sup>th</sup> day of March, 1998; and

**WHEREAS**, the General Assembly has adopted O.C.G.A. § 43-24A-1, the Georgia Massage Therapy Practice Act, which imposes licensing requirements on massage therapists; and

**WHEREAS**, the Commissioner deems it in the best interest of the citizens of Bartow County to revise the existing County Ordinance to be consistent with the State Law;

**NOW THEREFORE BE IT ORDAINED** by the Commissioner of Bartow County, by virtue of the authority vested in him by law, that the Bartow County Massage Therapy Ordinance, attached hereto and incorporated herein by reference, is hereby amended and readopted.

**SO ORDAINED AND READOPTED**, this 10<sup>th</sup> day of October, 2007, to be effective immediately, the public health, safety and welfare demanding.

Attest:

**BARTOW COUNTY, GEORGIA**

by: \_\_\_\_\_  
Kathy Gill, County Clerk

by: \_\_\_\_\_  
Clarence Brown, Commissioner

**Bartow County Massage Therapy Ordinance**  
October 10, 2007

**SECTION I. TITLE**

This ordinance will be known as and may be cited as “the Bartow County Massage Therapy Ordinance.”

**SECTION II. PURPOSE AND INTENT**

The purpose of this Ordinance is to provide procedures, rules and regulations governing the issuance of licenses for the practice of massage therapy.

**SECTION III. PRIVILEGE**

A license authorizing one to establish the practice of massage therapy may be issued by the Commissioner of Bartow County pursuant to the rules and regulations set forth in this ordinance. The holding of any such license or licenses is declared to be a privilege and not a right.

**SECTION IV. DEFINITIONS**

As used in this Ordinance, the term:

- A) County: means Bartow County, Georgia.
- B) Commissioner: means Commissioner of Bartow County or his successors in office being the governing authority of Bartow County.
- C) Department: means the Business and Occupation Tax Office.
- D) Governing Authority: means the governing authority of Bartow County.
- E) Licensee: means any person holding a license issued hereunder.
- F) Massage Clinic: means any business, conducted in whatever form, where one or more massage therapists perform massage therapy.
- G) Massage Practitioner: means a person massage therapist.
- H) Massage or Massage Therapy: means the manipulation of soft tissue for therapeutic purposes and includes, but is not limited to, effleurage (stroking skin without going deep), petrissage (kneading movement by lifting and grasping), tapotement (brisk blows in rapid, alternating fashion), compression, vibration, friction, nerve strokes and

other movements, whether by hand or with mechanical or electrical apparatus for the purpose of muscular massage. This may include the use of oils, salt glows, hot and cold packs and other recognized forms of massage therapy. It shall also mean "massage therapy" as defined in O.C.G.A. § 43-24A-3.

Massage therapy shall not include a diagnosis, service or procedure normally provided by a Doctor of Medicine, Doctor of Chiropractic, or Doctor of Podiatry, nor shall it apply to athletic trainers, technicians, or physical therapists who act by prescription or under the supervision of an authorized licensee to practice medicine or surgery.

Massage therapy shall not include any conduct or activity which is otherwise prohibited by state, federal or local law.

I) Massage therapist: means a person who administers massage or massage therapy for compensation.

## **SECTION V. LICENSE APPLICATION, INFORMATION TO BE GIVEN**

A) It is a violation of this Ordinance for any person to advertise massage therapy services unless such services are provided by a person who holds a valid license under this Ordinance. It shall be a violation of this Ordinance for any person to advertise:

(1) As a massage therapist unless the person holds a valid license under this Ordinance in the classification so advertised; or (2) Massage therapy services combined with escort or dating services or adult entertainment. It shall be unlawful for a person or business entity or its employees, agents, or representatives to practice massage therapy or to use in connection with its name or business activity the terms "massage," "massage therapy," "massage therapist," "massage practitioner," or the letters "M.T.," "L.M.T.," or any other words, letters, abbreviations, or insignia indicating or implying directly or indirectly that massage therapy is provided or supplied unless such massage therapy is provided by a massage therapist licensed and practicing in accordance with this chapter.

B) Any person desiring to engage in the business, trade, advertising or practice of massage therapy, shall, before engaging in such business, trade, advertising or practice, file a letter of application for a license addressed to Bartow County. This application shall be typewritten and shall contain the following appendices:

- 1) The name and home and business address of the applicant along with the applicant's:
  - a) date of birth
  - b) social security number
  - c) sex

- 2) The applicant must be fingerprinted by the Bartow County Sheriff's Office. Fingerprints must be made at least fifteen (15) days prior to issuance of any license in order to allow for the investigation of the applicant.
- 3) The applicant must furnish a list of at least three character witnesses providing their names, addresses and telephone numbers.
- 4) The applicant must furnish the name, address and telephone number of the applicant's previous employers for the last ten years.
- 5) The applicant shall also file for a business license under the Occupation Tax Ordinance pursuant to appropriate laws and regulations.

B) The County shall be notified immediately of a change of ownership and/or partners and/or employees of the applicant.

C) Any applicant hereunder, prior to making application for his/her license to engage in massage therapy, must have the following qualifications:

- 1) The applicant must be at least twenty-one (21) years of age;
- 2) The applicant must be of good moral character, must have not been convicted of any felonies involving moral turpitude for the previous five (5) years, nor have an established pattern of criminal misconduct with more than three convictions of minor crimes;
- 3) The applicant must furnish a photostatic copy of a diploma indicating graduation from a massage school or show evidence of current certification from the National Certification for Therapeutic Massage and Bodywork or the equivalent, nationally recognized certification as an exhibit to the application. The diploma should be representative of the fact that the applicant attended a course of study of no less than five hundred (500) hours, wherein the course of study consisted of a curriculum of anatomy, physiology, massage, hydrotherapy, electrotherapy, hygiene, health service management, and other appropriate subjects.

D) Any applicant for a license under this Ordinance shall demonstrate compliance with the licensing provisions of O.C.G.A. § 43-24A-1, the Georgia Massage Therapy Practice Act prior to receiving a license from Bartow County. No person may practice massage therapy in Bartow County unless such person is licensed or holds a provisional permit under that Act, or is otherwise exempt from such requirements.

## **SECTION VI. LICENSE FEES**

A) An individual or other legal entity which will be practicing massage therapy after meeting the qualifications listed above shall be issued a license to engage

in massage therapy by the County upon payment of a fee of One Hundred Fifty (\$150) dollars per year.

B) Renewal licenses may be granted for the same fee subsequent to a re-investigation by the Bartow County Sheriff's office. Application for renewal licenses must be filed on or before December 15 of each year.

## **SECTION VII. INFORMATION CONCERNING EMPLOYEES TO BE FILED WITH THE BUSINESS AND OCCUPATION TAX OFFICE**

It shall be the duty of all persons holding a license under this article to file with the County Business and Occupation Tax Office information regarding his or her home address, home telephone number and name, address and telephone number of his or her place of employment. Changes thereto shall be filed with said department within 10 days from the date the change becomes effective.

## **SECTION VIII. RECORD OF TREATMENT TO BE KEPT**

It shall be the duty of any person granted a license under this article to maintain correct and accurate names and addresses of the persons receiving treatment, the type of treatment administered, and the name of the person administering this treatment. These records shall be subject to inspection at any time by the County and Bartow County Sheriff's Office. Records shall be kept for a minimum of three years.

No massage therapy shall be performed by any massage practitioner in the home of any client or in any place except for the place of business of the licensee hereunder, unless a written memorandum is first made in a log or record kept at the place of business for the purpose of recording consecutively the date, time of treatment, place of treatment, name and address of persons who have received treatment, type of treatment to be received, name of person to render treatment and the time each treatment was completed, immediately upon the return to his/her place of business.

## **SECTION IX. REVOCATION OF LICENSE FOR CAUSE. PROVISION FOR HEARING**

A) A license granted hereunder shall be subject to revocation for cause. Whenever, in the opinion of Bartow County, there is cause to revoke this license, a written notice of intention to revoke the license shall be furnished to the holder thereof. A hearing will be scheduled wherein the licensee may present his/her case before the Commissioner. After the hearing, the Commissioner may revoke the license if, in his discretion, it is in the best interest of maintaining the peace and good order within the county.

The license of a massage therapist may be revoked on one or more of the following grounds:

- 1) The licensee is guilty of fraud in the practice of massage, or fraud or deceit in being licensed to practice massage therapy.
2. The licensee is engaged in the practice of massage therapy under a false or assumed name or is impersonating another practitioner of a like or different name.
- 3) The licensee is addicted to the habitual use of intoxicating liquors, narcotics or stimulants to such an extent as to incapacitate such person to the extent that he/she is unable to perform his/her duties.
- 4) The licensee is guilty of fraudulent, false or misleading or deceptive advertising or practices.
- 5) The licensee is charged with, has been convicted of, or has plead guilty or nolo contendere to a felony or a misdemeanor involving moral turpitude or to any charge of a lascivious nature.
- 6) The original application or renewal thereof contains materially false information or the applicant has deliberately sought to falsify information contained therein.
- 7) The licensee has exhibited conduct which could constitute a violation of law.

**B) HEARINGS**

- 1) A license holder shall be entitled to a hearing by the Commissioner concerning any alleged violation which could lead to revocation or suspension of the license.
- 2) Upon the report of any violation of this Ordinance, the Clerk shall give notice to the license holder in writing to show cause before the Commissioner why the license should not be revoked or suspended.
- 3) A written notice from the Clerk shall specify the nature of the violation and the time and place for the hearing, which shall not be less than three business days nor more than fourteen (14) business days from the date of service of the notice.
- 4) The Commissioner shall have the power to suspend any license under this Ordinance for a period of time not to exceed seventeen (17) business days pending the hearing on the question of whether or not the license shall be further suspended or revoked for cause.
- 5) At the hearing, the licensee shall have the opportunity to show cause why the license should not be suspended or revoked.
- 6) The Commissioner shall hear all relevant evidence as to the alleged violation of the Ordinance.
- 7) The hearing need not be at a regular meeting of the Commissioner but may be at such time and place as shall be fixed in the notice.
- 8) Within five business days from the date of the hearing, the Commissioner shall render a decision in writing and furnish a copy of the decision to the licensee. A decision of the Commissioner shall be

effective immediately whether or not the licensee can be personally served with a written copy of the decision.

#### **SECTION X. PRACTICE IN HOME PROHIBITED**

The licensee is prohibited from engaging in the practice of massage therapy from his or her residence.

#### **SECTION XI. VIOLATIONS**

In addition to any other remedy available by law, any firm, person or corporation who shall do anything prohibited by this Ordinance as the same exists or as it may hereafter be amended or which shall fail to do anything required by this Ordinance as the same exists or as it may hereafter be amended shall be guilty of a misdemeanor, amenable to the process of the Magistrate Court of Bartow County and, upon conviction, shall be punished by a fine not to exceed \$1,000.00, or by confinement in the county jail not to exceed 60 days, or both, in the discretion of the Court.

#### **SECTION XII. ADDITIONAL REMEDIES**

In the event any provision of this Ordinance has been violated or is being violated, in addition to other remedies, the County through its attorney may institute injunction, mandamus, or other appropriate action or proceeding to prevent or abate such violation.

#### **SECTION XVI. SEVERABILITY**

If any paragraph, subparagraph, sentence, clause, phrase or any portion of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, or if any provision of any part of this Ordinance as applied to any particular situation or set of circumstances be declared invalid, or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance or other circumstances not so held to be invalid. It is hereby declared to be the intent of the Commissioner to provide for separable and devisable parts and he does hereby readopt any and all parts hereof as may not be held invalid for any reason.

#### **SECTION XVII. REPEALER**

All Ordinances and Resolutions in conflict herewith are hereby repealed.

#### **SECTION X. APPLICANT TO RECEIVE COPY OF ORDINANCE**

Each applicant receiving a license from said department shall be furnished a copy of this ordinance.

**SO ORDAINED**, this 10<sup>th</sup> day of October, 2007, to be effective immediately, the public health, safety and welfare demanding.

Attest:

**BARTOW COUNTY, GEORGIA**

by: \_\_\_\_\_  
Kathy Gill, County Clerk

by: \_\_\_\_\_  
Clarence Brown, Commissioner