

Chapter 33.5 - MASSAGE BUSINESSES

Footnotes:

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Editor's note— Ord. No. 712-21, § 1, adopted July 19, 2021, repealed ch. 33.5, arts. I—III, §§ 33.5-1—33.5-5, 33.5-21, 33.5-22, 33.5-31—33.5-35 and enacted a new ch. 33.5 as set out herein. Former ch. 33.5 pertained to similar subject matter and derived from Ord. No. 209-92, § 1, adopted April 13, 1992; Ord. No. 1110-96, § 1, adopted December 16, 1996; Ord. No. 516-15, § 15, adopted August 17, 2015; and Ord. No. 427-18, § 20, adopted June 11, 2018.

Cross reference— Health and sanitation, Ch. 24; hospitals, nursing and boarding homes, Ch. 26.

Sec. 33.5-1. - Definitions.

- (1) *Background check* means a national criminal history records check conducted by the federal bureau of investigation upon submission of fingerprint records and all required documents.
- (2) *Director* means the director of the Denver Department of Excise and Licenses.
- (3) *Department* means the Denver Department of Excise and Licenses.
- (4) *Massage* means a system of structured touch, palpation, or movement of the soft tissue of another person's body in order to enhance or restore the general health and well-being of the recipient. Such system includes, but is not limited to, techniques such as effleurage, commonly called stroking or gliding; petrissage, commonly called kneading; tapotement or percussion; friction; vibration; compression; passive and active stretching within the normal anatomical range of movement; hydro massage; and thermal massage. Such techniques may be applied with or without the aid of lubricants, salt or herbal preparations, water, heat, or a massage device that mimics or enhances the actions possible by human hands.
- (5) *Massage business* means any place of business where any massage is practiced or administered in exchange for remuneration except as provided in section 33.5-2(b).
- (6) *Massage therapist* has the same definition as provided in state law.
- (7) *Principal* of an entity means any individual officers, directors, managers, partners, members, principal owners, and any natural person with ten (10) percent or more financial interest in the entity.
- (8) *Sexual act* means sexual contact, sexual intrusion, or sexual penetration as defined in C.R.S. 18-3-401.

(Ord. No. 712-21, § 1, 7-19-21)

Sec. 33.5-2. - License required; exemptions.

(a) *License required.*

- (1) On and after July 1, 2022, it shall be unlawful for any person to operate a massage business without a valid massage business license issued by the department pursuant to this article.
- (2) The license shall be conspicuously posted at all times on the licensed premises.

(b) *Exemptions.* The licensing requirements of this article do not apply to:

- (1) Public and private schools accredited by the state board of education or approved by the state division of private occupational schools;
- (2) Facilities providing massage services by employees of any governmental entity;

- (3) Training rooms of a recognized professional or amateur sports organization, dance troupe, bona fide athletic other such athletic organization. For purposes of this subsection, a bona fide athletic club is an athletic club receives ten (10) percent or less of its gross income from providing massages to its members or the public;
- (4) Offices, clinics, and other facilities at which health care professionals licensed or registered with any state provide massage services to the public in the ordinary course of their health care profession;
- (5) Barber shops, beauty salons, and other facilities at which barbers and cosmetologists licensed by the state provide massage services to the public in the ordinary course of their professions;
- (6) A place of business where a person offers to perform or performs massage for not more than seventy-two (72) hours in any six-month period and the massage is part of a public or charity event;
- (7) A place of business where a licensed massage therapist practices as a solo practitioner; or
- (8) A place of business which employs individuals who do not claim expressly or implicitly to be massage therapists and provides alternative methods that employ contact. For the purposes of this subsection, "alternative methods that employ contact" include, but are not limited to:
 - a. Practices using reflexology, auricular therapy, and meridian therapies that affect the reflexes of the body;
 - b. Practices using touch, words, and directed movements to deepen a person's awareness of movement patterns in his or her body, such as the Feldenkrais method, the Trager approach, and body-mind centering;
 - c. Practices using touch or healing touch to affect the human energy systems, such as reiki, shiatsu, and meridians;
 - d. Structural integration practices such as Rolfing and Hellerwork; and
 - e. The process of muscle activation techniques.
- (c) *Pattern of criminal behavior.* If there is a continued pattern of criminal behavior with arrests, complaints regarding sexual misconduct, or criminal intent that is related to human trafficking disguised as a legitimate exemption under this section, the director may, at the director's discretion, determine that a facility is no longer exempt from licensing pursuant to subsection 33.5-2(b).
- (d) *Records.* Each massage business shall maintain books and records on the licensed premises with the following information for all employees and independent contractors who have worked at the massage business within the past five (5) years:
 - (1) The employee or contractor's name, date of birth, and contact information;
 - (2) The employee or contractor's start and end date of employment or service; and
 - (3) A valid copy of a massage therapist license for each person required by state law to be licensed as a massage therapist.

(Ord. No. 712-21, § 1, 7-19-21)

Sec. 33.5-3. - Application.

- (a) All applications for licensing as a massage business shall be made upon forms provided by the department and shall include, in addition to any information required by chapter 32 of this Code, the following

information:

- (1) A statement whether the applicant or any principal has been convicted of any felony, misdemeanor, or municipal ordinance violation (other than traffic violations), the nature of the offense, the penalty or punishment imposed, and the date and place where such offense occurred;
 - (2) A statement whether a judgment for fraud, deceit, or misrepresentation was ever entered against the applicant or any principal, and the details thereof;
 - (3) An affidavit attesting that each person required by state law to be licensed as a massage therapist holds a valid state license;
 - (4) A background check for the applicant and all principals, completed no more than sixty (60) days before the application date;
 - (5) A statement whether the applicant or any principal is or has been an owner, officer, director, manager, partner, or member of any legal entity which currently operates or previously operated a massage business and the name, dates of operation, and location of such business or businesses;
 - (6) A statement whether the applicant or any principal has had a license under this or any other massage business statute or ordinance, denied, suspended, or revoked, the name and location of the massage business for which such license was denied, suspended, or revoked, and the date of such denial, suspension, or revocation; and
 - (7) Proof of possession of the licensed premises, either by valid warranty deed, valid lease, or other verification of the applicant's right to possession of the premises. If the applicant does not own the property where the licensed premises are located, the applicant must also provide written documentation from the property owner allowing the applicant to operate a massage business on the premises.
- (b) The director may, at the director's discretion, require additional documentation associated with any application as may be necessary to enforce the requirements of this article.

(Ord. No. 712-21, § 1, 7-19-21)

Sec. 33.5-4. - Transferability of license.

- (a) No license for a massage business shall be transferable from one (1) person to another. For the purposes of this subsection, the transfer, sale, or assignment of ten (10) percent or more of the ownership interest as listed in the original application shall be deemed a transfer of ownership.
- (b) No massage business license shall be transferable from one (1) location to another.

(Ord. No. 712-21, § 1, 7-19-21)

Sec. 33.5-5. - Terms of licenses; renewals.

- (a) A license for a massage business shall be valid for a period of one (1) year from the date of issuance, unless suspended or revoked earlier.
- (b) Except when the department has received a complete renewal application, it shall be unlawful for any person to operate a massage business after the expiration date recorded upon the face of the license issued pursuant to this article.

- (c) All applications to renew a massage business license shall include:
- (1) An affidavit attesting that each person required by state law to be licensed as a massage therapist holds a valid state license;
 - (2) A CBI individual records check from the Colorado Bureau of Investigation for the applicant and all principals, completed no more than sixty (60) days before the renewal application date; and
 - (3) Any additional information as required by the department.
- (d) In addition to any other grounds specified in this Code, the director may refuse to renew a license for any of the causes for denial provided in section 33.5-6 or any of the causes for disciplinary action provided in section 33.5-7.

(Ord. No. 712-21, § 1, 7-19-21)

Sec. 33.5-6. - Causes for denial.

In addition to the grounds set forth in chapter 32 of this Code, no license for a massage business shall be issued to or held by:

- (a) Any person who:
 - a. Is under the age of eighteen (18) years;
 - b. Has voluntarily surrendered any license to practice as a massage therapist or operate a massage business in any jurisdiction as a result of, or while, under civil or criminal investigation;
 - c. Has had a license to practice as a massage therapist or operate a massage business denied or revoked;
 - d. Has been convicted of or released from incarceration for any felony within five (5) years of the application date;
 - e. Has been convicted of or released from incarceration for any misdemeanor or municipal ordinance offense involving fraud, theft, deceit, or misrepresentation within five (5) years of the application date;
 - f. Has been convicted of operating without a license required under this article or performing any act for which a license is required under this article;
 - g. Is required to register pursuant to article 22 of title 16, C.R.S., as amended.
 - h. Has been convicted of or released from incarceration for any offense where the underlying factual basis has been found to include any sexual act;
 - i. Has a character and reputation showing a pattern of conduct or personal history that does not demonstrate honesty, fairness, and respect for the rights of others or for the law; or
 - j. Has been previously denied a license under this chapter 33.5 or has had a license issued under this chapter suspended or revoked within five (5) years of the application date.
- (b) No massage business license shall be issued or held for a location at which a massage business license was revoked or surrendered for cause within the preceding twenty-four (24) months.

(Ord. No. 712-21, § 1, 7-19-21)

Sec. 33.5-7. - Disciplinary actions.

- (a) In addition to the grounds provided in chapter 32 of the Code, a license under this article may be suspended or revoked for any of the grounds for denial set forth in section 33.5-6 of this article.
- (b) Procedures for investigation of license violations, and for suspension, revocation, or other licensing sanctions as a result of any such violation, shall be as provided in chapter 32 of the Code and any rules and regulations promulgated by the director.

(Ord. No. 712-21, § 1, 7-19-21)

Sec. 33.5-8. - Unlawful acts.

In addition to any other acts prohibited by this chapter, it shall be unlawful for any person who operates a licensed massage business, or any supervisor, manager, independent contractor, or employee thereof to commit the following acts on the premises:

- (a) Perform or allow any person to perform massage if the person is required by state law to be licensed as a massage therapist and the person does not hold such license;
- (b) Fail to provide a valid copy of a massage therapist license for each person required to be licensed pursuant to state law;
- (c) Use or allow any other person to use the premises of a massage business for the purposes of temporary or permanent housing, shelter, living quarters, or sleeping quarters;
- (d) Perform, offer to perform, or agree to perform any sexual act, or allow another person to perform, offer to perform, or agree to perform any such sexual act;
- (e) Violate article 7 of title 18, C.R.S. as amended, or Chapter 38, Article 5, Division 2 of the Code;
- (f) Fail to call the police department when violations of city, state, or federal laws occur on the premises or fail to cooperate in the investigation of such criminal activity when requested by law enforcement;
- (g) Place, publish, or distribute, or cause to be placed, published or distributed, any misleading or false advertising that would reasonably suggest to prospective clients that sexual acts occur on the premises;
or
- (h) Operate between the hours of 11:00 p.m. and 5:00 a.m.

(Ord. No. 712-21, § 1, 7-19-21)

Sec. 33.5-9. - Rules and regulations.

- (a) The director may make such reasonable rules and regulations as may be necessary for the purpose of administering and enforcing the provisions of this article and any other ordinances or laws relating to and affecting the licensing and operation of massage businesses.
- (b) It shall be unlawful for any person to violate a rule or regulation adopted by the director pursuant to this section.

(Ord. No. 712-21, § 1, 7-19-21)