

**Chapter 5-35**

**MASSAGISTS AND MESSAGE ESTABLISHMENTS**

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**Section 5-35-01DEFINITIONS**

For the purposes of this Ordinance, the following terms, phrases, words and derivations shall have the meaning given herein.

- A. Applicant  
The person making application for a license or the renewal of a license as specified in this Chapter.
- B. Licensee  
A person having a City license in full force and effect issued hereunder as specified in this Chapter.
- C. License Officer  
The City Clerk.
- D. Massage  
Any method of manual manipulation of, pressure on or friction against, or rubbing, stroking, kneading, slapping, pounding, tapping, vibrating or stimulating the external parts of the human body with or without the aid of any mechanical or electrical apparatus, instrument or appliance with or without such supplementary aids as oils, rubbing alcohol, liniments, antiseptics, powders, creams, lotions, ointments or other similar preparations commonly used in the practice of massage and/or by the use of any kind or character of bath.
- E. Massage Establishment

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Any place or establishment where any person engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in subsection D. above.

- F. Massagist: (including the terms masseur or masseuse) Any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.
- G. Person  
Any person, firm, partnership, association, corporation, company or any organization of any kind.

### **Section 5-35-02LICENSE REQUIRED**

- A. It shall be unlawful for any person to engage in the practice of, or attempt to practice, massage for a fee, or for a gratuity, without first having obtained a valid license therefor as provided in this Chapter and which license is in full force and effect.
- B. It shall be unlawful for any person to engage in, operate, conduct or carry on, or maintain in or upon, or to permit to be engaged in, operated, conducted or carried on, or maintained in or upon, any premises in Boise City, the operation of a massage establishment as herein defined without first having obtained a license as provided for in this Chapter and which is in full force and effect.

### **Section 5-35-03EXEMPTIONS**

The following persons shall be exempt from the requirements of this Chapter:

- A. Persons authorized by the laws of the State of Idaho to practice medicine, surgery, osteopathy, chiropody, physical therapy, chiropractic, podiatry, or persons holding a drugless practitioner's certificate under the laws of the State of Idaho;
- B. Nurses registered or licensed pursuant to the laws of the State of Idaho. Orderlies, attendants or nurses aides in hospitals or clinics or under the direction of a licensed physician; and
- C. Barbers and cosmetologists duly licensed under the laws of the State of Idaho.
- D. Members in good standing of any professional massage therapy or bodywork organization approved by the City Clerk. All persons desiring to qualify for this exemption shall make application for a certificate of exemption to the Licensing Officer in the manner required by 5-35-5 of this Chapter and by a showing that the applicant for exemption is a member in good standing of an approved associations or organization. A list of the approved associations or organizations shall be available to the public at the Office of the City Clerk.
- E. The exemptions hereby granted shall apply and extend to the person or persons so exempt so long as and to the extent necessary for the activities performed in the course of the bona fide practice of the business or profession of the person exempted.

(6605, Amended, 09/25/2007; 5375, Amended, 03/03/1992; 5585, Amended, 11/15/94)

### **Section 5-35-04ACT OF LICENSING OFFICER**

Upon determination that the applicant is qualified for a license pursuant to the qualifications and conditions of licensee, the Licensing Officer shall either issue a Boise City Massage License to the

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applicant or shall deny the same for cause.

### **Section 5-35-05 APPLICATION FOR EXEMPTION CERTIFICATE**

Any person desiring to apply for an exemption from the requirements of this Chapter pursuant to Boise City Code 5-35-3 D. shall make annual application for a Certificate of Exemption to the Boise City License Officer. All applications for a Certificate of Exemption shall provide with the application at least the following:

- A. The name and residence address of the applicant.
- B. The business address of applicant.
- C. The date of birth, social security number and motor vehicle license number, if applicable.
- D. The professional association under which the applicant claims exemption and proof of membership in good standing.

### **Section 5-35-06 APPLICATION FOR MASSAGE ESTABLISHMENT LICENSE**

Application for a license to operate a massage establishment, which employs any persons as massagists not exempted by this Chapter, shall be made to the License Officer accompanied by the annual fee hereinafter prescribed, and the application shall contain at least the following:

- A. The exact nature of the massage to be administered.
- B. The location and mailing address of the proposed establishment.
- C. The name and residence address of the applicant.
- D. If applicant is a corporation, the names and residence addresses of each of the officers, directors and manager of said corporation and of each stockholder owning more than ten percent (10%) of the stock of the corporation, and the address of the corporation itself, if different from the address of the proposed massage establishment. Said persons shall be construed as joint applicants for a massage establishment license.
- E. If applicant is a partnership, the names and residence addresses of each of the partners including limited partners, and the address of the partnership itself, if different from the address of the proposed massage establishment. Said persons shall be construed as joint applicants for a massage establishment license.
- F. Written proof that the applicant is over the age of eighteen (18) years.
- G. The height, weight, color of hair and eyes of each applicant or joint applicant.
- H. One photograph of the applicant taken within thirty (30) days of the date of application at least two inches by two inches (2" x 2"). If the applicant is a corporation, one photograph at least two inches by two inches (2" x 2") of each officer or managing agent(s) of said corporation. If the applicant is a partnership, one portrait photograph taken within thirty (30) days of the date of application at least two inches by two inches (2" x 2") in size of each partner, including a limited

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partner in said partnership.

- I. The business, occupation, or employment of the applicant for the five (5) years immediately preceding the date of the application, including the name, dates, location and nature of same.
- J. The history of the applicant in the operation of a massage establishment or similar business or occupation, including, but not limited to, whether or not such person, in previously operating in this or another city within or without the State has had a massage or similar license or application therefor, denied, revoked or suspended, and the reason therefor, within five (5) years immediately preceding the date of application, and the business activity or occupation subsequent to such action of suspension or revocation.
- K. Whether the applicant (including the officer, directors and managers of a corporation, and partners and managers of a partnership) within five (5) years prior to making application has been convicted of, paid any fine, been placed on probation, received a deferred sentence, received a withheld judgment, suffered the forfeiture of a bond for failure to appear or completed any sentence of confinement for any felony or nontraffic misdemeanor.
- L. The name and address of each massagist who is or will be employed in said establishment.
- M. Authorization for the City, its agents and employees to seek information and conduct an investigation pursuant to Idaho Code Section 67-3008 into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.
- N. An applicant who was not licensed by this Chapter for the year immediately preceding the current application shall be required to be fingerprinted by an appropriate agency designated by the Licensing Officer. Cost of taking and processing such fingerprints shall be borne by the applicant. The City Clerk is authorized to perform or request criminal history checks of any applicant including a national background check by the Federal Bureau of Investigation. Pursuant to Idaho Code Section 67-3008 the City Clerk may forward an applicant's fingerprints through the Idaho Department of Law Enforcement to the Federal Bureau of Investigation Identification Division for a national background check. Unless otherwise provided for by law, criminal history records shall not be disseminated to a private entity.

(6148, Amended, 04/30/2002; 5106, Added, 08/09/1988)

### **Section 5-35-07 MASSAGIST LICENSE**

Application for a massagist's license by all persons not exempted by this Chapter shall be made to the License Officer accompanied by the annual fee hereinafter prescribed, and the application shall include the following:

- A. Name and residence address and all previous residential addresses immediately prior to the present address of applicant for a period of five (5) years from date of application.
- B. Social security number.
- C. Written proof that the applicant is at least eighteen (18) years of age.
- D. Weight, height, color of hair and eyes.

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- E. Two (2) front face photographs taken within thirty (30) days of the date of application and at least two inches by two inches (2" x 2") in size.
- F. The business, occupation or employment of the applicant for five (5) years immediately preceding the date of application.
- G. The massage or similar business license history of the applicant, and whether the applicant has had such license, or application therefor, denied, revoked or suspended within five (5) years immediately preceding the date of application and the reason therefor, and the business activities or occupations subsequent to such actions of denial, suspension or revocation.
- H. Whether the applicant within three (3) years immediately prior to the date of application has been convicted of, paid any fine, been placed on probation, received a deferred sentence, received a withheld judgment, suffered the forfeiture of a bond for failure to appear or completed any sentence for confinement for any felony or nontraffic misdemeanor.
- I. Authorization for the City, its agents and employees to seek information and conduct an investigation pursuant to Idaho Code Section 67-3008 into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.
- J. An applicant who was not licensed by this Chapter for the year immediately preceding the current application shall be required to be fingerprinted by an appropriate agency designated by the Licensing Officer. Cost of taking and processing such fingerprints shall be borne by the applicant. The City Clerk is authorized to perform or request criminal history checks of any applicant including a national background check by the Federal Bureau of Investigation. Pursuant to Idaho Code Section 67-3008 the City Clerk may forward an applicant's fingerprints through the Idaho Department of Law Enforcement to the Federal Bureau of Investigation Identification Division for a national background check. Unless otherwise provided for by law, criminal history records shall not be disseminated to a private entity. (Ord. 5106, 8-9-88)

(6148, Amended, 04/30/2002)

### **Section 5-35-08SOLE PROPRIETORSHIP MASSAGISTS**

- A. **Definition**  
A sole proprietorship massagist is an individual, not connected or employed by any massage establishment, who practices the profession of massage in the personal residences of individual clients or at the personal residence of the sole proprietorship massagist.
- B. **Application**  
All sole proprietorship massagists shall make application for a sole proprietorship massage license in the same form as is required by Section 5-35-7 of this Ordinance and pay the required fee.
- C. **Operating and Sanitary Requirements**  
All sole proprietorship massagists shall comply with Section 5-35-13 B. 1. d. and e.; B. 2. b., c. and d.; and B. 3. b., c. and d. of this Chapter.
- D. **Additional Requirements**  
All persons licensed under this Section as sole proprietorship massagists shall keep at all times an

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appointment book in which the name of each and every patron or client shall be entered, together with the time, date, place of service and the nature of the service provided. The appointment book shall be available for inspection by the Licensing Officer and the Boise City Police Department.

E. All sole proprietorship massagists shall maintain all qualifications and conditions as specified in Boise City Code 5-35-11.

### **Section 5-35-09 INVESTIGATION AND RECEIPT OF APPLICATION**

Upon receipt of an application for a license, the License Officer shall cause an investigation to be made and shall refer all applications to the Police Department, the Fire Department, Building Department and the Central District Health Department for their recommendations. The applicant for either a massage establishment license or massagist license shall submit to an interview for such further information and identification as may be deemed necessary by any officer of the City, and shall afford the License Officer and any other department or member thereof of the City reasonable opportunity to inspect the facilities for which the license is requested.

### **Section 5-35-10 GRANT, TERM AND FEE OF LICENSES**

- A. The License Officer, upon receiving the written recommendations of all departments, shall determine if the qualifications and conditions in this Chapter have been met.
- B. The License Officer shall issue an annual license to a massage establishment. Each license shall expire at the end of one year from the date of its issuance, unless sooner revoked or surrendered. Licenses shall not be transferable. A provisional license may be issued pending completion of the required investigation.
- C. The License Officer shall issue an annual license to each massagist. Each license shall expire at the end of one year from the date of its issuance, unless sooner revoked or surrendered. Licenses shall not be transferable. A provisional license may be issued pending completion of the required investigation.
- D. The annual non-refundable license fee shall be in an amount established by the Boise City Council and listed on the most current City Clerk License for a massage establishment..
- E. Each massage establishment shall remit a fee of twenty-five dollars (\$25.00) to the Central District Health Department for a health inspection consistent with this Chapter.
- F. All persons applying for an exemption as specified by 5-35-3 D. shall remit an annual fee in an amount established by the Boise City Council and listed on the most current City Clerk License Fee Schedule.
- G. All licenses or exemption certificates issued pursuant to this Ordinance shall be prominently and conspicuously displayed on the premises of the massage establishment.

(6419, Amended, 09/20/2005; 5106, Added, 08/09/1988)

### **Section 5-35-11 QUALIFICATIONS; AND CONTINUANCE OF QUALIFICATIONS**

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- A. The License Officer shall refuse to issue a license to a massage establishment, a massagist or a sole proprietorship massagists license, if it is found that:
1. The correct permit fees have not been tendered to the appropriate party, and, in the case of a check or bank draft, honored with payment upon presentation.
  2. The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the City's building, zoning and health regulations.
  3. The applicant or manager or other person principally in charge of the operation of the business, or the stockholders holding more than ten percent (10%) of the stock of the corporation and any officer, directors and employees of a corporation, or the members of a partnership, have been, within five (5) years prior to making application, convicted of, paid any fine, been placed on probation, received a deferred sentence, received a withheld judgment, suffered the forfeiture of a bond for failure to appear or completed any sentence of confinement for any felony or nontraffic misdemeanor.
  4. The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the application or in any document required to be submitted in support thereof.
  5. The applicant has had a massage business, massagist, or other similar permit or license denied, revoked, or suspended for any of the above causes by the City or any other state or local agency within five (5) years prior to the date of the application.
  6. The applicant, if an individual, or if a corporation any of the officers and directors, or if a partnership any member of the partnership, and the manager or other person principally in charge of the operation of the business, is not over the age of eighteen (18) years.
- B. All persons licensed hereunder must continue throughout the license period to have all of the qualifications and none of the disqualifications as provided for in this Ordinance.

### **Section 5-35-12 CHANGE OF ADDRESS, NAME AND OFFICERS, DIRECTORS, STOCK HOLDERS, PARTNERS AND EMPLOYEES OF LICENSEE**

Every massage establishment licensee shall report within 24 hours to the License Officer 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 ten percent (10%) of the stock of the corporation, officers, directors and any and all changes of name, style or designation under which the business is to be conducted; any and all changes of business address or telephone numbers where the business is to be conducted; any and all changes or transfers of massagists employed in the business whether by new or renewed employment, discharge or termination, or otherwise.

Every massagist shall report within 24 hours to the License Officer any and all changes of employment, whether by new or renewed employment, discharge or termination, or otherwise, giving the name and address of the former employer, if any, and the name and address of the new employer, if any.

### **Section 5-35-13 OPERATING AND SANITARY REQUIREMENTS**

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- A. All massage performed by massagists employed by massage establishments and required to be licensed by this Chapter shall be performed at a licensed massage establishment.
- B. Unless otherwise ordered or approved by the Central District Health Department, each establishment shall be constructed, operated, and maintained to meet the following minimum requirements:
  - 1. Physical facilities:
    - a. Steam rooms, shower compartments, steam compartments, tub compartments, toilet rooms, and adjacent exits shall have smooth, nonabsorbent, and easily cleanable floors and walls.
    - b. Floors of wet and dry heat rooms shall be adequately sloped to one or more floor drains properly connected to an approved sewer system, except that dry heat rooms with wooden floors need not be provided with sloped floors and floor drains.
    - c. A source of water approved by the Central District Health Department shall be available within the immediate area of the dry and wet heat rooms to facilitate cleaning.
    - d. The premises shall have adequate equipment for disinfecting or sanitized nondisposable instruments and materials used to administer massages.
    - e. Massage tables, exercise tables, and benches shall have easily cleanable upholstery or other approved material covering the entire top surface.
    - f. Pools, tubs, and similar equipment designed for multiple use without the water being changed, shall comply with Boise City Code Title 9, Chapter 17, and state and other laws. Tubs, baths, and similar equipment designed for single use shall be emptied after each use, thoroughly cleaned, and properly sanitized.
    - g. No owner or operator shall use an establishment for housing, sheltering, or harboring or cause or permit the same to be used as living or sleeping quarters by employees or other persons. Home occupations as defined by Boise City Code Title XI are exempted from this requirement.
    - h. Toilet facilities shall be provided in convenient locations separate from other facilities, to provide privacy to the occupant(s).
    - i. Each handwashing facility shall be provided with hot and cold running water, soap or detergent, and sanitary single service towels or blow dryer(s) at all times. A common towel(s) shall not be used.
  - 2. Cleaning and maintenance:
    - a. Every portion of the establishment, including appliances, exercise tables, and equipment and apparatus, shall be kept clean, in good repair, and maintained in a sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet facilities and rooms shall be thoroughly cleaned each

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day the establishment is in operation. Bathtubs and massage tables shall be cleaned and disinfected after each patron's use.

b. Each establishment shall have clean, sanitized sheets, towels, or other linen in sufficient quantity and said towels and linen shall be cleaned and sanitized after each use.

c. Massage table(s) and each patron shall be provided with clean and sanitary sheets, towels, or other linen. No common use of sheets, towels, or other linens shall be permitted.

d. All instruments, apparatus, equipment, or appliances used more than once shall be disinfected after use on each patron.

### 3. Operators and personnel:

a. All massages or treatments in an establishment shall be in a room designed for this purpose.

b. All employees, patrons, and operators shall be clean and wear clean outer garments. All employees and operators shall maintain a high degree of personal cleanliness and conform to hygienic practices while on duty.

c. Each operator shall wash their hands thoroughly before and after administering a massage or treatment on each patron, and as often as necessary to remove soil and contamination. An operator or employee of an establishment shall thoroughly wash their hands after using the toilet, smoking, or eating.

d. No operator shall administer a massage or give treatment if he or she knows or should know that he or she has any contagious or communicable disease.

### 4. Hours of Operation

All massage establishments licensed under this Ordinance shall be closed for business between the hours of 10:00 p.m. and 7:00 a.m.

## **Section 5-35-14INSPECTIONS**

The Departments of Police, Fire and Building of Boise City and the Central District Health Department shall at any time during business hours, and at least twice a year, make an inspection of each massage establishment for the purposes of determining that the provisions of this Ordinance are complied with. It shall be unlawful for any licensee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

## **Section 5-35-15ADMINISTRATION**

The administration of this Ordinance shall be under the jurisdiction of the License Officer who shall:

A. Examine all applications filed under Sections 5, 6, 7 and 8, make or cause to be made further investigations of the application and applicant he shall deem necessary. (Ord. 4935, 6-17-86)

**Section 5-35-16 UNLAWFUL ACTS**

It shall be unlawful for any person

- A. To permit any person under the age of eighteen (18) years to come or remain on the premises of any massage establishment as a massagist, employee or patron without parental approval.
- B. To sell, give, dispense, provide or keep, or cause or permit to be sold, given, dispensed, provided or kept, any alcoholic beverage or liquor on the immediate premises of any massage establishment.
- C. To employ any person as a massagist unless such person has obtained and has in effect a license issued pursuant to this Ordinance.
- D. Owning, renting, leasing, operating, or managing a massage establishment, and knowingly to cause, allow or permit in or about such massage establishment, any agent, lessee, employee, or any other person under his control or supervision to perform such acts as may be prohibited by law.

**Section 5-35-17 PENALTIES**

Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding three hundred dollars (\$300.00) or be imprisoned in the Ada County jail for not exceeding six (6) months or be both so fined and imprisoned. Each day such violation is committed, or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder. (Ord. 4834, 6-10-85)