

TOWN OF CRAMERTON CODE OF ORDINANCES
TITLE XI – BUSINESS REGULATIONS
CHAPTER 113 – MASSAGE AND BODYWORK THERAPY REGULATIONS

Section

113.00	Purpose
113.01	Definitions
113.02	Unlawful to Operate Business and/or Conduct Practice without License and Permit
113.03	Application for Permit
113.04	Notifications
113.05	Exemptions
113.06	Health and Safety Requirements
113.07	Attire and Physical Hygiene Requirements
113.08	Inspection
113.09	Denial, Revocation, Restriction or Suspension of Permit
113.10	Appeal
113.99	Penalty

113.00 PURPOSE.

To ensure the protection of the health, safety, and welfare of the citizens of Cramerton receiving massage and bodywork therapy services.

113.01 DEFINITIONS.

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Administrator: The person assigned to administer the Code of Ordinances for the Town of Cramerton.

Business: See Business of Massage and Bodywork Therapy.

Business of Massage and Bodywork Therapy: An establishment where massage or bodywork therapy of any person is performed for a fee or in expectation of a gratuity from the client.

Chief of Police: The Chief of Police for the Town of Cramerton, or his or her designee.

Client: The person that pays for and/or receives massage and bodywork therapy services.

Department: The Cramerton Police Department.

License: Certification by the N.C. Board allowing a person to hold themselves out to others as a massage and bodywork therapist.

Licensee: A person who holds a valid license issued by the N.C. Board to engage in the practice of massage and bodywork therapy.

Massage and Bodywork Therapy: Systems of activity applied to the soft tissues of the human body for therapeutic, educational, or relaxation purposes. The application may include:

- a. Pressure, friction, stroking, rocking, kneading, percussion, or passive or active stretching within the normal anatomical range of movement.
- b. Complementary methods, including the external application of water, heat, cold, lubricants, and other topical preparations.
- c. The use of mechanical devices that mimic or enhance actions that may possibly be done by the hands.

N.C. Board: The North Carolina Board of Massage and Bodywork Therapy.

Owner: (1) Any person who is a general partner of a general or limited partnership that owns a business of massage or bodywork therapy; (2) any person who has five percent (5%) or greater ownership interest in a corporation that owns a business of massage or bodywork therapy; (3) any person who is a member of a limited liability company that owns a business of massage and bodywork therapy; or (4) any person who has a five percent (5%) or greater ownership interest in any other type of business association that owns a business of massage or bodywork therapy.

Permit: Written authorization to operate a massage and bodywork therapy business within the Town.

Permittee: Person issued a permit by the Town to engage in the practice of massage and bodywork therapy.

Person: Any individual, firm, association, partnership, corporation, joint venture, limited liability company, or combination of individuals.

Practice: See Practice of Massage and Bodywork Therapy.

Practice of Massage and Bodywork Therapy: The application of massage and bodywork therapy to any person for a fee or other consideration.

Private Parts: The penis, scrotum, mons veneris, vulva or vaginal area.

Sexual Activity: Any direct or indirect physical contact, or verbal communication, by any person or between persons which is intended to erotically stimulate either person, or which is likely to cause such stimulation and includes sexual intercourse, fellatio, cunnilingus, masturbation or anal intercourse. As used herein, masturbation means the manipulation of any body tissue with the intent to cause sexual arousal. Sexual activity can involve the use of any device or object and is not dependent on whether penetration, orgasm or ejaculation has occurred.

Town: The Town of Cramerton

113.02 UNLAWFUL TO OPERATE BUSINESS AND/OR CONDUCT PRACTICE WITHOUT LICENSE AND PERMIT.

(A) It shall be unlawful for any person to conduct the practice of massage and bodywork therapy, within the Town, without first having obtained a license from the N.C. Board.

(B) It shall be unlawful for any person to conduct the practice of massage and bodywork therapy, within the Town, without first having obtained a permit from the Chief of Police.

113.03 APPLICATION FOR PERMIT.

(A) Before engaging in the practice of massage and bodywork therapy, a licensee must file an application for a Massage and Bodywork Therapy Operation Permit with the Chief of Police. Such application shall be on a form provided by the Town.

(B) The application for such Massage and Bodywork Therapy Operation Permit shall include all of the following:

1. Legal name of the massage and bodywork therapy business;
2. Contact information of the business;
3. Legal name(s) of all owner(s) of the business;
4. A list of all of the business's employees and independent contractors who are practicing massage and body therapy for the business;
5. A copy of the valid N.C. Board License for all of the business's employees who are practicing massage and body therapy for the business;
6. Residence address and telephone number of all owners of the business;
7. Business address and telephone number of all owners of the business;
8. The form of business under which the business will be operation (i.e., corporation, general or limited partnership, limited liability company, or other form);
9. Each owner or operator of the business who is not a licensee shall submit a waiver and application for a background check, including the following: the individual's business, occupation, complete employment

history for the five years preceding the date of the permit application; the name and address of any massage business or similar business owned or operated by the individual whether inside or outside the Town;

10. A copy of a valid and current driver's license and/or identification, for each owner, operator and licensee, issued by a State or Federal government agency or other photographic identification bearing a bona fide seal by a foreign government;
11. For all owners, a signed statement that all of the information contained in the application for permit is true and correct; that all owners shall be responsible for the conduct of the business's employees or independent contractors practicing massage and bodywork therapy; and acknowledging that failure to comply with this Ordinance, State or Federal law may result in criminal prosecution, civil penalty, and/or suspension or revocation of the permit to operate within the Town.

(C) Before issuance of the operation permit the forgoing documentation shall be reviewed and approved by the Chief of Police. The permit shall be valid for one (1) year from the date of issuance. No reapplication will be accepted within one (1) year after an application or renewal is denied or operation permit is revoked.

(D) A permittee shall apply to the Town to amend its operation permit within thirty (30) days after any change of information contained in the current operation permit application.

(E) A permittee shall apply to the Town to renew its operation permit no sooner than thirty (30) days prior to the current permit's expiration date. If an application for renewal of such permit is not complete or timely received and the permit expires, no right or privilege to practice massage or bodywork therapy exists.

(F) The operation permit may be suspended, revoked or restricted for any violation of the Town of Cramerton Code of Ordinances, State or Federal law.

(G) Permittees shall notify the Town of an intent to rename, change management or convey the business.

113.04 NOTIFICATIONS.

Permittees shall immediately report, to the Chief of Police, the following:

(A) Arrests of any employees or owners of the business for any offense other than a traffic infraction, or waivable traffic offense.

(B) Resignations, terminations or transfers of licensees employed by the business.

(C) The occurrence of any violation of the Town of Cramerton Code of Ordinances, State or Federal law that occurs on the property of the business.

113.05 EXEMPTIONS.

The provisions of this Ordinance shall not apply to the following classes of individuals or businesses while engaged in the performance of their duties:

(A) Physicians, surgeons, chiropractors, dentists, osteopaths, nurses or any physical therapists who are duly licensed to practice their respective professions in the State of North Carolina and persons working directly under the supervision of or at the direction of such licensed persons, working at the same location as the licensed person, and administering massage or bodywork therapy services subject to review or oversight by the licensed person.

(B) Barbers and beauticians who are duly licensed under the laws of the State of North Carolina while engaging in practices within the scope of their licenses, except that this provision shall apply to the massaging of the neck, face and/or scalp, hands or feet.

(C) Hospitals, nursing homes, mental health facilities, or any other health facility duly licensed by the State of North Carolina, and employees of these licensed institutions, while acting within the scope of their employment.

(D) Accredited educational institutions whose coaches and trainers are acting within the scope of their employment.

(E) 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.

(F) Individuals administering massage, bodywork therapy or health treatment involving massage to persons participating in single-occurrence athletic, recreational or festival events, such as health fairs, road races, track meets, triathlons and other similar events; provided that all of the following conditions are satisfied:

1. The massage and bodywork therapy services are made equally available to all participants in the event;
2. The event is open to the participation by the general public or a significant segment of the public such as employees of sponsoring or participating corporations, groups, etc;

3. The massage and bodywork therapy services are provided at the site of the event and either during, immediately preceding or immediately following the event;
4. The sponsors of the event have been advised of and have approved the provisions of the massage and bodywork therapy services;
5. The persons providing the massage and bodywork therapy services are not the primary sponsors of the event.

113.06 HEALTH AND SAFETY REQUIREMENTS.

The following health and safety requirements shall be applicable to all permittees within the Town:

(A) It shall be unlawful for any licensee to engage in the practice of massage and bodywork therapy on any person under eighteen (18) years of age without the person's parent or legal guardian present in the room where all services occur.

(B) It shall be unlawful for any licensee to engage in the practice of massage and bodywork therapy on any person under fourteen (14) years of age without a written order directing the treatment to be given signed by a physician licensed to practice in the State of North Carolina.

(C) Massage and bodywork therapy shall be practiced only between the hours of 7:00 a.m. and 10:00 p.m. No permittee shall be open and practice between 10:00 p.m. and 7:00 a.m. A service commenced prior to 10:00 p.m. shall nevertheless terminate at 10:00 p.m. and, all clients shall exit the premises of the business at that time. It is the obligation of the permittee to inform clients of the requirement that services must cease at 10:00 p.m.

(D) A list of the services available and the cost of such services shall be posted in the reception area within the business premises, and shall be described in readily understandable language. Outcall service providers shall provide such a list to clients in advance of performing any service. No person shall offer or perform, any service other than those posted or listed as required herein, nor shall any person request or charge a fee for service other than that on the list of services.

(E) A copy of any permit issued by the Town shall be displayed prominently in the reception area, or similar open public space, of the business.

(F) For each massage or bodywork therapy service provided, the permittee shall keep a complete and legible written record of the following information:

1. The date and hour that service was provided;
2. The service received;
3. The name or initials of the employee entering the information;
4. The name of the licensee administering the service.
5. Such records shall be open to inspection by the Chief of Police.
6. These records may not be used by any person for any purpose other than as records of service provided and may not be provided to other parties by the permittee unless otherwise required by law.
7. Such records shall be retained on the premises of the business for a period of two (2) years.

(G) Permittees shall at all times be equipped with an adequate supply of clean sanitary towels, coverings, and linens. Clean towels, coverings, and linens shall be stored in enclosed cabinets. Towels and linens shall not be used on more than one person, unless they have first been laundered and disinfected. Towels, coverings and linens shall be laundered either by regular commercial laundering or by a noncommercial laundering process which includes immersion in water at least one hundred forty degrees Fahrenheit for not less than fifteen minutes during the washing or rinsing operation. Clean towels, coverings and linens shall be stored in closed, clean cabinets when not in use. Disposable towels and coverings shall not be used on more than one person. Soiled linens and paper towels shall be deposited in separate, approved receptacles.

(H) Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bath rooms, tanning booths, whirlpool baths and pools shall be thoroughly cleaned and disinfected as needed, and at least once each day the premises are open, with a disinfectant approved by the North Carolina Department of Health and Human Services. Bathtubs shall be thoroughly cleaned after each use with a disinfectant approved by the North Carolina Department of Health and Human Services. All walls, ceilings, floors, and other physical facilities for the business must be in good repair, and maintained in a clean and sanitary condition. The business or establishment shall at all times be equipped with an adequate supply of clean sanitary towels, coverings and linens, and all massage tables shall be covered with a clean sheet or other clean covering for each patron. After a towel, covering or linen has once been used it shall be deposited in a closed receptacle and not used until properly laundered and sanitized.

(I) Instruments utilized in performing massage shall not be used on more than one (1) client unless they have been sterilized, using approved sterilization methods.

(J) Each of the permittee's employees shall wear clean, nontransparent outer garments. Said garments shall not expose their genitals, pubic areas, buttocks, or chest, and shall not be worn in such manner as to expose the genitals, pubic areas, buttocks, or chest. All bathrobes, bathing suits and/or other garments that are provided for the use of clients shall be either fully disposable and shall not be used by more than one (1) client, or shall be laundered after each use.

(K) No person shall enter, be, or remain in any part of any permitted establishment while in possession of an open container of an alcoholic beverage, or consuming or using any alcoholic beverage or drugs except pursuant to a prescription for such drugs. The person in charge of the permitted establishment shall not permit any such person to enter or remain upon such premises.

(L) No permittee shall operate as a school of massage or bodywork therapy, or use the same facilities as that of a school of massage or bodywork therapy.

(M) No permittee 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 clients that any service is available other than those services listed as an available service, nor shall any permittee employ language in the text of such advertising that would reasonably suggest to a prospective client that any service is available other than those services as described in compliance with the provisions of this Ordinance.

(N) All client's genitals, pubic area, anus, and female client's breasts below a point immediately above the top of the areola must be fully draped at all times while any employee of the business is in area of the business with the client. No massage or bodywork therapy shall be provided to a client that results in intentional contact, or occasional and repetitive contact with the genitals, anus, or areola of that client.

(O) Where staff is available to assure security for clients and staff behind closed doors, the entry to the reception area of the business shall remain unlocked during business hours when the business is open for business or when clients are present.

(P) No permittee located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area shall block visibility into the interior reception and waiting area through the use of curtains, closed blinds, tints, or any other material that obstructs, blurs, or unreasonably darkens the view into the premises.

(Q) All business signage shall be in conformance with the current Code of

Ordinances of the Town of Cramerton.

(R) Minimum lighting consisting of at least one artificial light of not less than forty watts shall be provided and shall be operating in each room or enclosure where services are being performed on clients, and in all areas where clients are present.

(S) Ventilation shall be provided in accordance with applicable building codes and regulations.

(T) Hot and cold running water shall be provided at all times.

(U) Adequate dressing, locker and toilet facilities shall be provided for clients.

(V) A minimum of one wash basin for employees shall be provided at all times. The basin shall be located within or as close as practicable to the area devoted to performing of massage and bodywork therapy services. Sanitary towels shall also be provided at each basin.

(W) Pads used on massage tables shall be covered with material acceptable to the North Carolina Department of Health and Human Services.

(X) All permittees shall comply with all State and Federal laws and regulations for handicapped clients.

(Y) A licensee shall operate only under the name specified on his or her license issued by the N.C. Board.

(Z) A permitted establishment shall operate only under the name specified on its permit issued by the Town.

(AA) The entrance door allowing access to the business shall remain unlocked during business hours. Except as provided in Section 113.06(O), doors to dressing rooms and treatment rooms shall not be locked. Separate dressing rooms and toilet facilities shall be provided for each sex. The premises shall be maintained in a clean and sanitary condition.

(BB) No permittee shall have more than ten licensees working or practicing at the business premises at any one time.

(CC) All therapy rooms or cubicles, wet and dry heat rooms, toilet rooms, shower compartments, and hot tubs and pools shall be thoroughly cleaned and disinfected as needed, and at least once each business day the premises are open and such facilities are in use. All bathtubs shall be thoroughly cleaned and disinfected after each use.

(DD) All liquids, creams, or other preparations used on or made available to

clients shall be kept in clean and closed containers. Powders may be kept in clean shakers. All bottles and containers shall be distinctly and correctly labeled to disclose their contents. When only a portion of a liquid, cream or other preparation is to be used on or made available to a client, it shall be removed from the container in such a way as not to contaminate the remaining portion.

(EE) No invasive procedures shall be performed on any patron. Invasive procedures include, but are not limited to: (1) application of electricity which contracts the muscle; (2) application of topical lotions, creams, or other substances which affect living tissue, such as chemical peel preparations or bleaches; (3) penetration of the skin by metal needles; (4) abrasion of the skin below the nonliving, epidermal layers; (5) removal of skin by means of any razor-edged instrument or other device or tool; and (6) any needle-like instrument which is used for the purpose of extracting skin blemishes and other similar procedures.

(FF) All combs, brushes, and/or other personal items of grooming or hygiene that are provided for the use of clients shall be either fully disposable and shall not be used by more than one (1) client, or shall be fully disinfected after each use.

(GG) No clients shall be allowed to use any shower facilities of the business unless such clients are wearing slip-resistant sandals or flip-flops while in the shower compartment. All footwear such as sandals or flip-flops that are provided for the use of clients shall be either fully disposable and shall not be used by more than one (1) client, or shall be fully disinfected after each use.

(HH) A massage table shall be used for all massage therapy, with the exception of Thai, shiatsu and similar forms of massage therapy, which may be provided on a padded mat on the floor, provided the client is fully attired in loose clothing, pajamas, scrubs or similar style of garment. The table should have a minimum height of eighteen (18) inches. Beds, floor mattresses and waterbeds are not permitted on the permittee's premises.

(II) All locker facilities that are provided for the use of clients shall be fully secured for the protection of the client's valuables, and the client shall be given control of the locker key or other means of access.

(JJ) The permittee shall comply with all required local and State building standards.

(KK) Proof of malpractice insurance in the sum of no less than one million dollars shall be provided to the Chief of Police.

113.07 ATTIRE AND PHYSICAL HYGIENE REQUIREMENTS.

The following attire and physical hygiene requirements shall be applicable to all employees of a permittee:

(A) All persons shall be clean and wear clean and sanitary outer garments at all times. All outer garments shall be of a fully opaque, nontransparent material and provide complete covering from at least the mid-thigh to two inches below the collarbone. The midriff may not be exposed.

(B) All persons shall thoroughly wash their hands with soap and water or any equally effective cleansing agent immediately before providing massage therapy to a client. No massage therapy shall be provided upon a surface of the skin or scalp of a client where such skin is inflamed, broken (e.g., abraded, cut) or where a skin infection or eruption is present.

(C) No person afflicted with an infection or parasitic infestation capable of being transmitted to a client shall knowingly provide massage or bodywork therapy to a client, or remain on a permittee's premises while so infected or infested. Infections or parasitic infestations capable of being transmitted to a client include, but are not limited to: (1) cold, influenza or other respiratory illness accompanied by a fever, until twenty-four hours after resolution of the fever; (2) streptococcal pharyngitis ("strep throat"), until twenty-four hours after treatment has been initiated and twenty-four hours after resolution of fever; (3) purulent conjunctivitis ("pink eye"), until examined by a physician and approved for return to work; (4) pertussis ("whooping cough"), until five days of antibiotic therapy has been completed; (5) varicella ("chicken pox"), until the sixth day after onset of rash or sooner if all lesions have dried and crusted; (6) mumps, until nine days after onset of parotid gland swelling; (7) tuberculosis, until a physician or local health department authority states that the person is noninfectious; (8) impetigo (bacterial skin infection), until twenty-four hours after treatment has begun; (9) pediculosis (head lice), until the morning after first treatment; and (10) scabies ("crabs"), until after treatment has been completed. Blood-borne diseases, such as HIV/AIDS and hepatitis B (HBV), shall not be considered infectious or communicable diseases for the purpose of this subsection.

113.08 INSPECTION.

(A) Any business that obtains a permit shall allow the Chief of Police to conduct a reasonable inspection of the public areas of and areas otherwise open to plain view on or within the premises, to the extent allowed by law and during the regular business hours, for the purpose of ensuring compliance with this Ordinance, State and Federal law.

(B) All licensees shall provide their full, true name, and other names used, date of birth, driver's license state and number, Social Security Number, present

residence address, telephone number, their sex, height, weight, color of hair, and color of eyes. Such other identification and information shall be provided as required by the Chief of Police, necessary to confirm the identity of those claiming to hold a valid license by the N.C. Board.

(C) All licensees shall provide a complete definition of all services to be provided.

(D) All licensees shall notify the Chief of Police of any intention to rename, change management, or convey the massage business or establishment to another person or entity.

(E) Nothing in this Ordinance shall be deemed to prohibit any authorized government official, with competent jurisdiction, from pursuing any and all available legal remedies to secure entry into and inspection of the premises of the permittee if such entry is refused, or for any other reason allowed by law.

(F) It shall be unlawful for any person prohibit or interfere with such lawful inspection of the permittee's premises at any time it is open for business.

113.09 DENIAL, REVOCATION, RESTRICTION OR SUSPENSION OF PERMIT.

(A) For the purpose of enforcement of the requirements of this Ordinance, all owners of a permitted business shall be responsible for the conduct of all of its employees, agents, independent contractors or other representatives, while on the premises of the business or while providing massage and bodywork therapy.

(B) The Town may:

1. Require the owner(s) in their application for a permit, or for the renewal of such permit, to provide relevant information to the activities of the business or establishment regulated by this Ordinance;
2. Make reasonable investigations into the information so provided;
3. Charge a permit fee sufficient to cover the costs of the enforcement of the activities regulated by this Ordinance;
4. Deny, revoke, restrict or suspend a permit for either of the following causes: (a) an employee, agent, independent contractor or other representative of the business has committed a violation of this Ordinance; or (b) the business or establishment has provided materially false information in its application for a permit.

113.10 APPEAL.

(A) Within five days from any notice of revocation, restriction or suspension of an existing permit or denial of an application for permit from the Chief of Police, the applicant or permittee may appeal by submitting a written request to the administrator. The administrator shall hear an appeal at the earliest time practicable. Due notice of the date and time of the hearing shall be given to the appellant.

(B) The administrator may reverse or affirm the decision of the Chief of Police.

(C) The decision of the administrator shall become final.

113.99 PENALTY.

A violation of any of the provisions of this Ordinance shall constitute a misdemeanor, punishable as provided in G.S. § 14-4 and/or § 10.99 of the Town of Cramerton Code of Ordinances.