

FROM UDO – Effective Oct 7, 2019

SECTION 7.21 MASSAGE AND BODYWORK THERAPY.

Massage therapy centers, are permitted in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.21.1. General Requirements.

These requirements apply to massage therapists and massage and bodywork therapy business operators. No person permitted under this article shall allow or permit any person to massage or treat any person unless the person giving such massage or treatment has complied with all requirements of this article.

7.21.1.1. Permits required

7.21.1.1.1. All massage and bodywork therapists and owner/operators of massage and bodywork therapy establishments shall possess and provide proof of a North Carolina license to practice massage and bodywork therapy in accordance with NCGS Chapter 90, Article 36 Massage and Bodywork Therapy Practice.

7.21.1.1.2. A zoning permit is required, in accordance with Article 4, Development Review Process of this UDO, for both the practice of massage and bodywork therapy and owner/operators of massage and bodywork therapy establishments.

7.21.1.1.3. An annual Town of Nags Head Business Registration shall be completed by massage and bodywork therapists and/or owner/operators of massage and bodywork therapy establishments. At the time of registration, any fees associated with the registration shall be paid.

7.21.1.2. The following information shall be submitted and considered as part of the application for a permit from the Town:

7.21.1.2.1. The name of the business and location of the business.

7.21.1.2.2. List of North Carolina certified massage therapists and contact information for massage therapists working in massage therapy and bodywork establishments.

7.21.1.2.3. A certificate of insurance indicating that the applicant has professional liability insurance for the practice of massage therapy/bodywork.

7.21.1.2.4. A description of the services to be provided and any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.

7.21.1.2.5. If an applicant is to work under the supervision of a licensed physician, applicant must show scope of services from the licensed physician.

7.21.1.2.6. Verification of criminal history through investigative report by the Nags Head Police Department. Submission of the following information is necessary to complete this investigative report:

7.21.1.2.6.1. A complete statement of all convictions of any person involved in the operation of the business for any felony, or prostitution or any violation of any law relative to prostitution;

7.21.1.2.6.2. A complete statement of any revocation, by any governmental unit, of any license to operate a massage business or to engage in the business or profession of massage by the applicant or any persons associated with or employed by the operation of the massage therapy business.

7.21.1.2.6.3. A complete statement of any conviction for violation of any statute, law, ordinance or regulation of any government concerning the operation of a massage business or the business or profession of massage by the applicant or anyone employed with the business.

7.2.1.1.2.7 The Town reserves the right to request submission of any additional information deemed necessary to process the permit application.

7.21.1.3. The applicant or any person having a legal or beneficial ownership interest in the applicant shall not, for the three-year period preceding the application, have a previously issued license revoked for engaging in the business or profession of massage.

7.21.1.4. The applicant or any person having any legal or beneficial ownership interest in the applicant, shall not in the last ten (10) years have been convicted of any crime involving sexual misconduct including but not limited to, NCGS 14-177 – 14-202.1 and NCGS 14-203 – 14-208, any federal statutes relating to prostitution, or of any violation of any law or ordinance of any governmental unit related to the business or profession of massage.

7.21.1.5. It shall be unlawful for any person, corporation, partnership, or association to employ any person under the age of eighteen (18) years in the operation of a massage business.

7.21.1.6. Hours of operation:

7.21.1.6.1. No person shall massage or treat any person, or engage in the business or profession of massage, before 8:00 a.m. or after 12:00 midnight, prevailing time.

7.21.1.6.2. No person shall admit customers or prospective customers, or remain open for business, or allow, permit or condone any massage or treatment of any person before 8:00 a.m. or after 12:00 midnight, prevailing time.

7.21.1.6.3. No person in charge of managing a massage business shall allow, permit or condone any massage or treatment of any person before 8:00 a.m. or after 12:00 midnight, prevailing time.

7.21.1.7. Posting of license:

7.21.1.7.1. Every massage therapist shall post a copy of their North Carolina license to operate in their work area or on their person.

7.21.1.7.2. Every person, corporation, partnership, or association licensed under this article hereof shall display their business registration and their North Carolina license to operate in a prominent place or on their person.

7.21.1.8. A permit issued pursuant to this article is void if the licensee moves or ceases operating a massage business.

7.21.2. *Massage of Private Parts for Hire.*

It shall be unlawful for any person to massage or to offer to massage the private parts of another for hire. The term "massage," as used in this section, means the manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device. The term "private parts" means the penis, scrotum, mons veneris, vulva, or vaginal area. The provisions of this section shall not apply to licensed medical practitioners, osteopaths or chiropractors, or persons operating at their direction, in connection with the practice of medicine, chiropractic or osteopathy.

7.21.3. *Revocation of Permit.*

7.21.3.1. Violation of any part of this article shall be grounds for revocation of the permit.

7.21.3.2. A permit issued pursuant to this section shall be revoked by the UDO Administrator or designee upon the determination that:

7.21.3.2.1. The permit holder violates any building or fire prevention ordinances or any provision of this UDO.

7.21.3.2.2. The permit holder, or the legal or beneficial owner of any interest in the permit holder is convicted of any crime involving sexual misconduct including, but not limited to, NCGS 14-177 – 14-202.4, and NCGS 14-203 – 14-208 in the last ten years.

7.21.3.2.3. Any employee of the permit holder is convicted of any felony in connection with his employment, or is convicted of any crime involving sexual misconduct including, but not limited to, NCGS 14-177 – 14.202.4 and NCGS 14-203 – 14-208 or of this article.

SECTION 7.22 METAPHYSICAL WELLNESS SERVICES.

Metaphysical wellness services for which there is no professional licensing recognized by the State of North Carolina including hypnosis, past life regression, energy healing practices, phrenology, astrology, and intuitive readings such as psychic, palm, tarot, and oracle cards, are permitted in accordance with Section 6.6, Table of Uses and Activities, provided that the following conditions are met:

7.22.1. Applicants desiring to conduct metaphysical wellness services shall provide the following information to be considered as part of the application for a conditional use permit. The information shall include, but not be limited to, the following:

7.22.1.1. Name, alias or nicknames, resident and business address, phone number, place and date of birth, Social Security number, race, sex, age, height, weight, hair color, and eye color

of all people conducting metaphysical wellness services.

7.22.1.2. Written authorization to conduct an investigative report by the Nags Head Police Department of the applicant or any persons conducting metaphysical wellness services, including fingerprints and personal descriptive information for the purpose of obtaining criminal history record information, the costs of which shall be borne by the applicant.

7.22.1.3. A description of the metaphysical wellness services to be provided.

7.22.1.4. Hours of operation can be determined as part of the conditional use permit by the Board of Commissioners.

7.22.1.5. Written declaration, dated and signed by the applicant, certifying that the information contained in the application is true and correct.

7.22.2. Standards for permit review, issuance, and revocation:

7.22.2.1. The UDO Administrator, or his/her designee, shall conduct an independent investigation and determine whether the statements contained in the application are true.

7.22.2.2. The applicant shall not be issued a use permit if the investigation or the information furnished in compliance with this article shows that the applicant has been convicted within the last ten years from the date of the application of a felony or any other crime materially affecting the applicant's ability to conduct the permitted activity including a crime involving moral turpitude, or has been denied a permit or has had a permit revoked under any statute or ordinance similar in substance to the provisions of this article.

7.22.2.3. The UDO Administrator may revoke or suspend any permit issued pursuant to this article (1) for fraud, misrepresentation or any false statements contained in the application; (2) upon conviction of the applicant for any felony or misdemeanor involving moral turpitude after this permit is issued; (3) for failure to comply with the provisions of this article; or (4) if the applicant's business fails to comply with applicable Town, county, or state laws or regulations.

7.22.2.4. If the UDO Administrator revokes a permit, he/she shall notify the permittee in writing of such action, the reasons for the revocation, and the permittee's right to request a hearing. To receive a hearing, the permittee must make a written hearing request which must be received by the UDO Administrator within ten (10) days of the date of the revocation notice. If a timely hearing request is not received by the UDO Administrator, the decision shall be final and the permittee's right to any hearing regarding the revocation shall be waived. If a hearing is properly requested, it shall be held within ten (10) days from receipt of the hearing request. The hearing shall be presided over by the UDO Administrator or his/her designee. The permittee shall have the right to present evidence presented against the permittee, and to present argument or to have an attorney do so. Within a reasonable time after the hearing, the UDO Administrator shall render his decision. The permittee must discontinue operation of its business when the decision to revoke the permit becomes final.

7.22.2.5. The applicant shall have the right to appeal any decision of the UDO Administrator to the Board of Commissioners.