

2024 CODE AMENDMENTS

Official Code of Cobb County Part I. – Chapter 78

Package II

Version I - distributed on September 27, 2024

Board of Commissioners Public Hearing Dates

November 12, 2024 – 9:00 a.m.

November 21, 2024 – 6:00 p.m.

Cobb County Community Development

P.O. Box 649

Marietta, GA 30061

www.cobbcounty.org



Cobb County...Expect the Best!

Chapter 78 – LICENSES, PERMITS AND BUSINESSES

ARTICLE III. – SPECIAL LICENSES AND REGULATORY FEES

DIVISION 2. – PEDDLERS, DOOR-TO-DOOR SALESPERSONS, AND MOBILE FOOD VENDORS

Subdivision III.- Door-to-Door Salesperson's Permit

Section 78-112 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 78-112. -Application; registration; investigation and report; grounds for denial.

- (a) No door-to-door salesperson shall be authorized to solicit orders until he or she files an application with, from the license bureau and obtains a permit from, and registers as a door-to-door salesperson with the Cobb County Police Department Regulatory Services Unit. The ~~license bureau~~ Cobb County Police Department shall make an investigation, including but not limited to an investigation of the police record ~~and moral character~~ of the applicant. ~~The license bureau shall furnish the police department a duplicate of the application for the door-to-door salesperson's permit. The police department, within ten days, shall furnish a report to the license bureau of the police record, if any, of the applicant. No permit shall be given to any applicant who shall have either a pending charge or a conviction for a felony crime or~~

No applicant shall be granted a permit who:

- (1) Is not a citizen of the United States, not an alien admitted for permanent residence, or does not otherwise possess employment authorization from the United States Citizenship and Immigration Services;
- (2) Has been convicted within five (5) years immediately prior to the application for a door-to-door salesperson permit of the following:
 - Any felony;
 - any offense involving the elements of assault and battery; and/or,

 - Any offense involving fraudulent activities as described under OCGA 16-9-50 through 16-9-62.
- (3) Is on parole, probation, or convicted and released from incarceration, for any crime of moral turpitudes, including but not limited to child molestation, aggravated child molestation, or child sexual abuse, as defined in O.C.G.A Section 16-6-4 or is required to register as a sex offender pursuant to O.C.G.A. Section 42-1-12; and,
- (4) Has an active warrant against them.

~~an offense involving the elements of assault and battery, or any civil judgments involving unethical and improper business actions, including but not limited to actions which would constitute fraud and deceit under the laws of the state~~

- (b) No application for a permit under this section shall be received or acted upon if the applicant has submitted the same or a similar application for a permit within the preceding 12 months, which prior application has been dismissed, denied or abandoned. No license shall be granted if the applicant is in violation of this division or has within 12 months preceding the application

been in violation of this division or any other law or ordinance regulating the activities for which such permit is sought.

Section 78-114 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 78-114. -Duration; renewal.

A permit under this division shall be valid for 90 days from the date the ~~license~~ permit is issued. However, the permit may be renewed by filing a renewal application with the ~~business license office~~ Cobb County Police Department Regulatory Services Unit upon forms prescribed by the office and paying a renewal fee set in the schedule of fees to cover the expense of updating the investigative report.

Section 78-115 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 78-115. -Solicitation permit.

All door-to-door salespersons, both nonresident and resident, who shall solicit orders from house to house shall first obtain from the ~~supervisor of the license office~~ Cobb County Police Department Regulatory Services Unit a permit for such solicitation.

DIVISION 3. – LICENSES REQUIRING PRIOR APPROVAL AND REGULATION

Section 78-131 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 78-131. -Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverages includes, but is not limited to, malt beverages, vinous liquors and spirituous liquors.

Amusement activity includes any fair, concert, carnival or sideshow and those activities, rides and games normally associated with such amusements wherein the general public is allowed to view or participate for a price.

Billiard room means any public place with two or more tables on which the game of billiards is permitted to be played.

Billiards means any of the several games played on a table surrounded by an elastic ledge of cushions, with balls which are impelled by a cue, and shall include all forms of the game known as carom billiards, pocket billiards and English billiards. The term shall apply to all tables, both coin-operated and non-coin-operated.

Health spa means a business establishment that derives its primary source of income from massage therapy as defined in state law, or any other hands-on therapy including foot massage and the practice of reiki, to help customers, reduce stress, provide therapy, enhance appearance, enhance or restore health and well-being, or experience sensory pleasure. ~~This term shall not include~~

~~professional healthcare establishments or fitness centers utilizing equipment only and having two or fewer massage tables or other equipment for massage.~~

Licensee means any person holding a license issued under this division who is full time employee responsible for the management of the establishment.

Manager means a full-time employee who is responsible for the management and operation of the establishment. A manager or manager's designee must be on the premises at all times the business is in operation.

Massage Therapist – means a person licensed by the State of Georgia as a licensed massage therapist.

Massage Therapy or Massage – means the application of a system of structure touch, pressure, movement, and holding to the soft tissue of the body in which the primary intent is to enhance or restore health and well-being. Such term includes complementary methods including without limitation, lubricants, salt scrubs, or other topical preparations.

Pawn and pledge mean bailment of personal property as security for any debt or engagement, redeemable upon certain terms and with the express or implied power of sale on default.

Pawnshop means any business wherein a well-defined part thereof is to take or receive, by way of pledge, pawn or exchange, any goods, wares or merchandise, or any kind of personal property whatever, as security for the repayment of money lent thereon.

Pool room. See Billiard room.

Spa. See Health spa.

DIVISION 7. – HEALTH SPAS

Subdivision I. – In General

Section 78-272 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 78-272. -Inspections.

The county, through its employees of the county business license office, ~~or~~ the county police department, or any regulatory unit of the county shall have the right to inspect the place of business and records, not protected by HIPAA, of any licensee under this division during the hours authorized under this division for conduct of business to ensure compliance with this division.

Section 78-273 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 78-273. - List of employees to be filed with county.

It shall be the duty of all owners, licensees, or managers under this division to file with the county, through its business license division and/or police department, the names of all employees required to have a work permit and designated managers, their home addresses, home telephone numbers, places of employment, date of birth, their duties and services performed, a copy of their

Georgia State Massage Therapy License (when applicable), and any other descriptive information that the business license division or police department may require in its investigation of the establishment and its employees, ~~within 72 hours of employment upon hire and prior to the employee's 1st day of employment at the licensed health spa.~~ All changes in information shall be filed in writing, via email or via online portal ~~within 72 hours of the change prior to the employee's 1st day of employment at the licensed health spa.~~

Section 78-274 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 78-274. - Record of treatments.

It shall be the duty of any person ~~operating a business granted a license~~ under this division to maintain, in English, correct and accurate records at the place of business of the names, telephone numbers, and addresses of the persons receiving treatment at such establishment, the type of treatment administered, cost of treatment and the name of the person of the establishment administering such treatment. The Record of Treatment must be completed prior to providing service. Records to be maintained on the form provided by Cobb County's Business License Division. ~~Records shall also be maintained as required under section 78-275.~~ Such records shall be subject to inspection at any time by any member of the business license office. Entries required under this section shall be maintained for three (3) years.

Section 78-275 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 78-275. - Hours and place of operation.

The owner, licensee, or manager of the health spa shall provide in writing to the Cobb County Business License Division the hours of operation of the health spa. ~~No licensee-~~ business operating under this division shall operate a health spa except during the hours of 6:00 a.m. and 10:00 p.m. The licensee or a designated manager shall be on the premises at all hours that the establishment is engaged in or open for business. No employee shall remain in the establishment between the hours of midnight and 5:00 a.m.

Section 78-276 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 78-276. - Prohibited contact.

No person in a Health Spa shall conduct the practice of massage therapy without a valid Massage Therapy License from the State of Georgia.

No independent contractor or any employees, apprentices or trainees of the health spa business, shall manipulate, fondle or handle the sexual organs or anus of any person.

Subdivision II. – License

Section 78-291 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 78-291. - Application.

No person shall engage in the business, trade, or profession or practice the business, trade or profession of a health spa unless such person shall, before engaging in such business, trade or profession, file an application for a license with the county as set forth in division 3 of this article. Such application shall set forth or show compliance with the following:

- (1) ~~Name and address of the applicant.~~ Name to include preferred name, chosen name, and aliases. Current business, residential, and mailing addresses for the applicant.
- (2) Name to include preferred name, chosen name, and aliases, and address of any person having previously employed the applicant for a period of two years or longer in a health spa or business.
- (3) Qualifications, plainly stated, with all documentary exhibits annexed.
- (4) A diagram of the establishment's floorplan must be submitted with the application. Floorplan should include the location of all rooms and equipment located within.

The Official Code of Cobb County, Georgia is amended by adding a section numbered Section 78-291.1 to read as follows:

Sec. 78-291.1. - Time limit to begin business in licensed establishment; forfeiture for nonuse.

(a) All holders of licenses under this division must, within 12 months after the issuance of the license, open for business the establishment referred to in the license. Failure to open the licensed establishment as referred to in this division within the 12-month period shall serve as an automatic forfeiture and cancellation of the unused license, and no refund of license fees shall be made to the license holder. No massage therapy may be conducted until such time as the business is open to the public.

(b) Any holder of a license under this division who shall begin the operation of the business as authorized in the license, but who shall for a period of three consecutive months thereafter cease to operate the business as authorized in the license, shall upon completion of the three-month period automatically forfeit his license, which license shall then, by virtue of such failure to operate, be canceled without the necessity of any further action of the county.

Section 78-292 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 78-292. - Qualifications and investigation of applicant(s), licensee, and employees.

- (a) The applicant and licensee must be a U.S. citizen or a ~~legal~~ permanent resident ~~alien~~ prior to making application.
- (b) The licensee is required to be a resident of the State of Georgia and a Georgia State Licensed Massage Therapist.
- (c) Where the applicant for a license under this chapter is a corporation, any license for the operation of a health spa shall be applied for by and shall be issued to the corporation and either the majority shareholder thereof, or a person deemed the licensee by the corporation.
- (d) Where the applicant for a license under this chapter is a partnership, any license for the operation of a health spa shall be applied for by and shall be issued to the partnership and either the managing general partner thereof, or a person deemed the licensee by the partnership.
- (e) Where the applicant for a license under this chapter is a sole proprietor, license for the operation of a health spa shall be applied for by and shall be issued to the sole proprietor if he is working full-time in a managing capacity on the premises, and if not, then the sole proprietor and a person deemed the licensee by the sole proprietor.
- (f) The county police department shall investigate the background of both the applicant(s) and the licensee, and their spouses, and employees and independent contractors, except for Georgia state licensed massage therapists, of the establishment and report its recommendation to the business license division manager for a health spa license.

Section 78-293 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 78-293. - Location and premises requirements.

(a) At no time will any person reside or lodge either temporarily or permanently in the health spa establishment.

Evidence that premises are used for residential or lodging purposes may include, but is not limited to:

1. Beds or mattresses, other than professional massage tables;
2. Bedding, such as pillows, blankets, and sheets, other than those used for professional massage tables;
3. Sleepwear, including pajamas, nightgowns, and lingerie;
4. Groceries, that require cooking, such as raw meats, poultry, fish, and grains;
5. Cookware, utensils, and cooking equipment;
6. Clothing in an amount that exceeds one change of clothing for each employee or independent contractor who is present on the premises; or
7. Personal grooming and hygiene items.

~~(a)~~ An applicant for a health spa license under this subdivision, prior to making application for a license, must have a location in unincorporated Cobb County where the health spa is a permitted use in the underlying zoning district.

~~(b)~~ The establishment shall be subject to inspection at any time during business hours by the business license division manager or his or her designee and/or by the police department, or any other regulatory unit of the county to ensure compliance with this article.

~~(c)~~ All employees and other persons on the premises, with the exception of customers receiving a massage from a state licensed massage therapist, shall be completely clothed at all times when administering a massage. For the purposes of this article, the term "completely clothed" means having on the upper portion of the body appropriate undergarments and either blouse or shirt which shall cover all the upper body save the arms and neck, and shall mean having on the lower body appropriate undergarments plus either pants or skirt, and said pants or skirt must cover from the waist down to a point at least two inches above the knee. All clothes worn in compliance with this article shall be entirely non-transparent.

~~(d)~~ Ordinary beds or mattresses shall not be permitted in any health spa establishment.

~~(e)~~ No licensee under this division shall operate a health spa except during the hours of 6:00 a.m. and 10:00 p.m.

~~(f)~~ The licensee or a designated manager shall be on the premises at all hours that the establishment is engaged in or open for business.

~~(g)~~ A sign or lettering shall be posted at the main entrance identifying the business as a health spa. Said sign shall have lettering a minimum of five inches in height and shall identify the premises as a health spa business. The sign and the front of the business shall not be illuminated by strobe or flashing lights.

~~(h)~~ The hours of operation must be posted on the front door or window, clearly visible from the outside. Any massage or services begun before 10:00 p.m. must conclude at or before 10:00 p.m. Patrons of the health spa may not be permitted to remain on the premises outside these hours of operation.

~~(i)~~ A list of services available and the cost of such services font size 12 or larger letters shall be posted in a conspicuous public place within the premises. Only those services listed may be performed. Nothing in this subsection shall preclude the operator from posting additional signs in other languages as long as at least one sign in English is posted pursuant to this subsection.

(ji) No person shall enter, be in or remain in any part of the health spa while in possession of, consuming, using, or under the influence of any alcoholic beverage or controlled substance. The operators(s) and on-duty manager shall be responsible to ensure that no such person shall enter or remain upon the premises.

(kj) All front, reception, hallway or front exterior doors (except back or exterior doors used solely for employee entrance to and exit from the massage business) shall be unlocked during business hours. No massage may be given within any cubicle, room, booth or any area within a massage business which is fitted with a lock of any kind (such as a locking door knob, padlock, dead bolt, sliding bar or similar device), unless the only door is an exterior door. Entry doors to any room shall not be obstructed by any means.

(lk) Model notice regarding human trafficking notice must be displayed in all public bathrooms, and near public entrances or a location where the signage is visible, as required by State law.

(ml) Foot massages must be performed in chairs in an open space. No foot massage should be conducted in a room behind a closed door or out-of-view. Patrons must be appropriately clothed when receiving foot massage services.

(am) Camera systems monitoring the establishment must have onsite access which allows the viewing of camera footage from within the establishment. There must be cameras at all points of entry and exit.

Section 78-294 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 78-294. - Grounds for denial, suspension or revocation.

In addition to the causes for denial, suspension or revocation of a license specified in section 78-45(c), due cause for denial, suspension or revocation of a license for a massage practitioner or health spa shall include the following:

- (1) The applicant or licensee is or has been guilty of fraud.
- (2) The applicant or licensee is or has been engaged in business under a false or assumed name, or is impersonating another person of a like or different name.
- (3) The applicant or 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 is unable to perform his professional duties.
- (4) No license for a health spa shall be issued to any person where any individual having an interest either as owner, partner, principal shareholder, or licensee, directly or indirectly, beneficial or absolute, shall have been convicted within ten years immediately prior to the consideration of a health spa license of criminal attempt or conspiracy to violate any laws relating to racketeer-influenced and corrupt organizations as defined in the Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act (O.C.G.A. § 16-14-1 et seq.), crimes against the person as defined in O.C.G.A. tit. 16, ch. 5 (O.C.G.A. § 16-5-1 et seq.), sexual offenses as defined in O.C.G.A. tit. 16, ch. 6 (O.C.G.A. § 16-6-1 et seq.), gambling offenses as defined in O.C.G.A. tit. 16, ch. 12, art. 2 (O.C.G.A. § 16-12-20 et seq.), obscenity and related offenses as defined in O.C.G.A. tit. 16, ch. 12, art. 3 (O.C.G.A. § 16-12-80 et seq.), or contributing to the delinquency of a minor, all as defined by state law as it presently exists or may be hereafter amended, or has been convicted of any felony under the laws of this state or any other state or of the federal government.
- (5) Failure of the applicant or licensee to have or maintain initial qualifications for obtaining the license.
- (6) The applicant, licensee, shareholder, partner, agent, employee or independent contractor has employed any person who is not a licensed massage practitioner and allowing or permitting such person to administer massage in an establishment except as may be allowed by state law.

- (7) The premises in which the business is located are in violation of any of the federal, state, county or municipal laws designed for the health, protection and safety of the occupants.
- (8) Failure of the applicant or licensee to actively supervise and monitor the conduct of the employees, customers and others on the premises in order to protect the health, safety and well-being of the general public and the customers.
- (9) The violation of any laws or ordinances regulating such businesses or for the violation of any state or federal law.
- (10) Any change in the area where such business is located, which does not conform with the zoning existing at the new location.
- (11) Any reason which would authorize the Cobb County board of commissioners to refuse the issuance of a business license.
- (12) The licensee or work permit holder has recklessly allowed three or more violations of this article within a 12-month period.
- ~~(13) Any violation of this chapter.~~

Section 78-299 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 78-299. - Work permits.

(a) For whom required. It is the responsibility of the licensee and designee to ensure that the employees required under this Code section obtain and possess the required work permit issued by Cobb County Police Department Regulatory Services Unit prior to working. Work permit applicants must provide a current business address, residential, and mailing address for the application. Any employees who work at more than one establishment shall obtain a separate work permit for each establishment and must have their work permit prior to working at any health spa location within unincorporated Cobb County or under the county's jurisdiction. Employees for the purpose of this section shall include independent contractors. Failure of an employee to possess a work permit as required by this section, shall be unlawful and will subject the employee and licensee to prosecution as provided in this chapter and shall be grounds for suspension or revocation of the license.

A permit to work in any of the following establishments shall be required of the following:

- (1) All employees of the health spa who are not State of Georgia Licensed Massage Therapists;
 - (2) All independent contractors of the health spa who do not hold a State License.
- (b) Permit term. Any work permit issued under this section shall expire 12 months from the date of issuance unless suspended or revoked as provided in this section.
- (c) Possession of permit by employees. Employees holding permits issued pursuant to this section shall at all times during their working hours have the permits available for inspection and a government-issued photo ID that matches the name on the Work Permit.
- (d) No applicant for a massage/health spa establishment work permit shall work at a massage establishment or a health spa establishment in the county until the applicant receives, the establishment posts, and the operator has added the new permit holder to the list of employees and submitted same to the county.. A receipt issued by the county is not a valid massage/health spa establishment work permit and does not authorize the person to work in a massage establishment or health spa establishment.
- (e) It shall be unlawful for an employee whose work permit has been suspended or revoked to refuse to return the work permit to the Cobb County Police Department Regulatory Service Unit or designee or to alter, conceal, deface, or destroy the work permit.