

Government Ordinances

ORDINANCE NO. 80-1

MESSAGE PARLOR ORDINANCE

The Town Board of the Town of Verona, Dane County, Wisconsin, does ordain that Chapter 6 of the Town of Verona Ordinances, entitled "Massage Parlor Ordinance", be and the same hereby is created to read as follows:

6.01 MESSAGE ESTABLISHMENT LICENSE

(A) License Required

No person, corporation, partnership or legal entity of any sort shall suffer, cause or permit the conduct of a massage establishment without having first obtained a license therefore from the Town Board. A separate license shall be obtained for each such establishment.

(B) Application for License

1. A person desiring a Massage Establishment License shall pay the required fee to and file a written application with the Town Clerk. The application shall be made on forms supplied by the Town Clerk. Where the applicant is a corporation, the application shall be made by an agent, registered as such, who has been a resident of the Town of at least ninety (90) days preceding the application.
2. Applications for a Massage Establishment License shall include the following information and items:
 - a. The location, mailing address, and zoning classification of the proposed establishment;
 - b. For an individual, or for each member of a partnership or joint venture, or for any agent of a corporation:
 1. Full name and present address; two most previous addresses, and dates of residence at each; height, weight, color of hair and eyes and social security number.
 2. Written proof of age.
 3. A full set of fingerprints, and two (2) photographs, 2"x2" in size, taken within the thirty (30) days immediately preceding the date of the application.
 4. The business or occupation for the two (2) years immediately preceding the date of application.
 5. Disclosure of the revocation or suspension of any previous or similar licenses, the reasons for such revocation or suspension, and the name and address of the authority which issued and revoked or suspended such license.
 6. Disclosure of any convictions for crimes or ordinance violations, other than traffic offenses, within the three (3) years immediately preceding the application together with the name and address of the court or courts where such convictions occurred.
 - c. If the applicant is a corporation, the name and address of each officer, director and stockholder of the corporation, together with a disclosure of the ownership interests of each and of whether or not each such officer, director or stockholder has any interest in, holds office in, or owns stock in any other corporation conducting any similar business in the State of Wisconsin.

- d. All phone numbers of the proposed massage establishment including any unlisted and unpublished numbers.
- e. The name, address, and phone numbers of each person to be employed by the applicant at the proposed massage establishment at the time the license is issued.
- f. Certification that the proposed premises are in compliance with the Building Code and Fire Code. The applicant may, in the alternative, file a bond assuring that any work required to bring the premises into compliance therewith shall be accomplished prior to the opening of business. Compliance with such codes shall be a condition precedent to the opening of business.
- g. The sworn verification of the applicant that all of the information provided in the application is true and correct.

(C) Application Fee

A nonrefundable application fee in the amount of Two Hundred Fifty Dollars (\$250.00) shall be paid to the Town Clerk at the time any application for a Massage Establishment License is filed.

(D) Notice to Neighboring Owners and Electors

When an application for a Massage Establishment License, is made for a location not previously licensed, the Town Clerk shall notify all property owners and registered electors within five hundred feet (500) of the proposed location whose post office address is known or can be ascertained with reasonable diligence from Town records. Such notice shall be sent by regular mail ten (10) days prior to the hearing on the application for such license.

(E) Location Restrictions

- 1. No license shall be granted for any massage establishment unless the premises are situated in a BI, CI or C2 zoning district.
- 2. No license shall be granted for any massage establishment if its main entrance is within seventy-five (75) feet of the main entrance to any residence or of a common entry hall to residences, nor for any room or rooms in any hotel, or motel, nor for any apartment room, or rooms, in multiple family dwellings.

6.02 MASSAGE TECHNICIANS AND MANAGER'S LICENSE

(A) License Required. No person shall act or operate as a massage technician or manager for money or other consideration without first having obtained a license to do so.

(B) Applications for License

- 1. Any person desiring a Massage Technician's or Manager's License shall pay the required fee to and file a written application with the Town Clerk. The application shall be made on forms supplied by the Town Clerk.
- 2. The application for a Massage Technician's or Manager's License shall include the following information and items:
 - a. The applicant's full name, present address, two most previous addresses and dates of residence at each, height, weight, color or hair and eyes and social security number.
 - b. The applicant's business, occupation or employment during the two years immediately preceding the date of the application.

- c. Disclosure of the revocation or suspension of any previous or similar licenses, the reason therefore, together with the name and address of the authority which issued and revoked or suspended such license.
- d. Disclosure of any convictions for crimes or of any ordinance violations, other than traffic offenses, within the three years immediately preceding the date of the application together with the names and addresses of the court or courts where such convictions occurred.
- e. For massage technicians only, a certificate from a licensed physician that the applicant has been examined and found to be free of communicable diseases within the thirty (30) days immediately preceding the date of the application.
- f. For massage technicians only, evidence of graduation from a school recognized by a professional massage organization or demonstration of competence and proficiency to the satisfaction of the Town Board through continuous experience as a massage technician for two (2) years before the date of the application.
- g. Written proof that the applicant is more than eighteen (18) years of age.
- h. A full set of the applicant's fingerprints and two (2) photographs of the applicant at least 2"x2" in size taken within the thirty (30) days immediately preceding the date of the application.
- i. The name and address of the licensed massage establishment by which the applicant is to be employed.
- j. The sworn verification of the applicant that all of the information provided in or with the application is true and correct.

(C) Application Fee

A nonrefundable application fee in the amount of Fifty Dollars (\$50.00) shall be paid to the Town Clerk at the time any application for a Massage Technician's or Manager's License is filed.

(D) Limit on Number of Licenses

No more than three Manager's licenses shall be issued for any license massage establishment.

(E) Separate Licenses Required

A Massage Technician's License shall not entitle the holder to operate or manage a massage establishment; nor shall a Manager's License entitle the holder to act as a massage technician. An individual who holds both licenses may, however, act as both a massage technician and manager.

6.03 ISSUANCE OF LICENSES

(A) Public Hearing

License applications shall be reviewed by the Town Board and a license may be issued after a public hearing upon a majority vote of the Town Board. Notice of such hearing shall be sent to the applicant, by regular mail, at least ten (10) days prior to the hearing.

(B) Reasons for Denial

The Town Board may, in its sole discretion, grant a license unless it is shown:

1. In the case of a massage establishment license, that the operation as proposed or as contemplated by the applicant does not comply with all applicable state laws, administrative regulations and Town ordinances; or that the proposed establishment is not located in a proper zoning district.
2. In the case of all licenses;
 - a. That the applicant, or any partner, or any officer, director, or stockholder of a corporate applicant has been convicted, within three years immediately prior to the date of the application by a court of competent jurisdiction of an offense under CH.944, Wis. Stats., or involving substances included in Sub. II of Ch. 161, Wis. Stats., or of an offense against the person or property of another or of a violation of this ordinance or a similar ordinance in any other municipality; or
 - b. That the information furnished on the application was incomplete or inaccurate; or
 - c. That any applicant has, knowingly or with the intent to deceive, made any false, misleading or fraudulent statement of fact in the application or any other document required by the Town in conjunction therewith;

or

- d. That the applicant has not resided in the Town for at least ninety(90) days prior to the date of application.

(C) Notice of Denial

In the event that a license application is denied by the Town Board the applicant shall be given written notice of the denial setting forth the reasons for the denial.

6.04 EXPIRATION OF LICENSES

All Licenses shall expire one (1) year from the date of issuance. Applications for renewal shall be filed not less than sixty (60) days prior to such expiration date and shall be the sole responsibility of the applicant.

6.05 TRANSFER OF LICENSES PROHIBITED

No license issued pursuant to this chapter may be transferred between locations or persons and no massage establishment license shall be sold or be subject to transfer of corporate assets or change of corporate officers or directors.

6.06 REGULATIONS APPLICABLE TO MASSAGE ESTABLISHMENTS

Each massage establishment shall, at all times, be maintained in compliance with and comply with the following regulations:

- A. The massage establishment shall comply with all state statutes and administrative regulations and all county and Town ordinances.
- B. Not more than one (1) nonflashing business sign may be posted outside of the establishment. Any such sign shall clearly identify the business as a massage establishment and shall be posted at the main entrance. No description of services

- shall be permitted on such sign. No other business sign shall be posted at any entrance or on the exterior of the premises.
- C. No massage establishment shall be open for business between the hours of 10:00 P.M. and 8:00 A.M.
 - D. Only massage technicians licensed pursuant to this chapter shall be employed as massage technicians by the massage establishment.
 - E. The practice of all massage technicians employed by the massage establishment shall be limited to the licensed premises.
 - F. No person under the age of eighteen (18) years shall be permitted on the premises.
 - G. No intoxicating liquors, fermented malt beverages, or substances included in Sub. II of Oh. 161, V-Wis. Stats., shall be permitted in the massage establishment. Food shall be permitted when there is no charge therefore and when a food preparation area, including a sink with hot and cold running water, is a part of the massage establishment.
 - H. The massage establishment shall provide a waiting area for patrons separate from any area where massages are given. There shall be direct access to this area from the main entrance or from a hallway connected only to the main entrance.
 - I. The massage establishment shall provide individual dressing rooms, lockers and separate showers and toilet facilities for male and female patrons.
 - J. Rooms in which massage is to be practiced or administered shall have at least fifty (50) square feet of clear floor area. A light level of at least forty (40) foot candles as measured at least three (3) feet above the floor shall be maintained therein. Such rooms shall be equipped with cabinets for the storage of clean linen and chemicals and with covered stainless steel receptacles for the storage of soiled linen. Doors to such rooms shall be incapable of being locked from the exterior or interior and shall contain a transparent window pane which provides an unobstructed view of the entire room from the hallway or other access area which is immediately adjacent to the room.
 - K. A licensed Massage Establishment Manager shall be present on the premises at all times during all business hours. Such manager shall be responsible for the operation of the massage establishment and for attaining and maintaining compliance with the provisions of this chapter.
 - L. The massage establishment shall report any change in the facts disclosed, on its license application and all changes in personnel to the Town Clerk within ten (10) days after such change.
 - M. The massage establishment shall permit its premises to be inspected at any time during normal business hours by building inspectors, fire inspectors, health inspectors, or any law enforcement personnel.
 - N. The massage establishment shall keep current records of the names and addresses of its massage technicians, agents, managers and employees and the date of employment and termination of each. Such records shall be open to inspection by any person authorized to inspect the premises.
 - O. The massage establishment shall keep a record of the legal name, address and phone number of each patron, of each date on which the patron received massage, and the name of the massage technician from whom the patron received a massage. Such records shall be maintained for at least sixty (60) days following the date of the massage, shall be open to inspection only by health inspectors or personnel or any health agency, and shall be used only for the purpose of controlling contagious or communicable disease or infection.

6.07 REGULATIONS APPLICABLE TO MASSAGE TECHNICIANS

The following regulations and restrictions shall be applicable to and complied with by massage technicians at all times:

- A. A massage technician may massage for money or other consideration only on the premises of a licensed massage establishment.
- B. A massage technician may not massage patrons under the age of eighteen (18) years.
- C. A massage technician shall not administer a massage:
 - 1. If the massage technician believes, or has reason to believe, knows or should know, that the massage technician or the patron is not free of any contagious or communicable disease or infection.
 - 2. To any patron exhibiting skin fungus, skin infections, skin inflammation, skin eruptions or skin chancre, or any discharge of pus.

(D) A massage technician shall report any change in the facts disclosed in his or her license application to the Town Clerk within ten (10) days after such change.

(E) Each ninety (90) days, beginning on the ninetieth (90th) day after the issuance of his or her license, the massage technician shall file with the Town Clerk a certificate from a licensed physician that the massage technician has been examined and found to be free of communicable diseases within the ten (10) days immediately preceding the filing of such certificate.

6.08 PROHIBITED ACTIVITIES

(A) It shall be unlawful for any person, corporation or other legal entity to suffer, cause or permit the operation of a massage establishment or for a person to operate as a massage technician, agent, manager or employee, except in strict compliance with this chapter.

(B) It shall be unlawful for any person, corporation, or other legal entity to hinder, delay, prevent or refuse to permit any lawful inspection or investigation of a massage establishment.

(C) It shall be unlawful for any person, while in a massage establishment, to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital part of any other person.

(D) It shall be unlawful for any person, while in a massage establishment, to expose his or her sexual or genital parts, or any portion thereof, to any other person or to expose the sexual or genital parts, or any portion thereof, of any other person.

(E) It shall be unlawful for any person, while in a massage establishment and in the presence of any other person, to fail to conceal with a fully opaque covering the sexual or genital parts of his or her body.

(F) It shall be unlawful for any person owning, operating or managing a massage establishment to cause, allow or permit in or about such massage establishment, any agent, employee, or any other person under his control or supervision to perform any act prohibited by this chapter.

(G) It shall be unlawful for any person while inside a massage establishment to offer, make available, permit or in any way participate in the performance of any act prohibited by this chapter.

6.09 REVOCATION OR SUSPENSION OF LICENSE

(A) Grounds for Revocation or Suspension

Any license issued pursuant to this chapter may be suspended by the Town Board for a period of not more than six (6) months or may be revoked.

1. If the licensee provided false, misleading, or incomplete information on his or her license application, or on any report or record required by this chapter; failed to disclose any required information; or recorded any information required by this section knowing it to be false, fraudulent or intentionally deceptive.
2. For the violation of any provision of this chapter.
3. In the case of a massage technician's or manager's license, upon conviction of any of tense under Ch. 944 Wis. Stats., of any offense involving any substance included in Sub..II of Ch. 161, Wis. Stats., or of any offense against the person or property of a patron, whether such offense occurred, on or off the premises of a licensed massage establishment.
4. In the case of a massage establishment license, upon the conviction of any of its personnel of any offense under Ch. 944, Wis. Stats., or of any offense involving substances in Sub II of Ch. 161, Wis. Stats., where the participation or knowledge of any other establishment personnel or of any individual within the business structure of the licensed massage establishment is demonstrated to the satisfaction of the Town Board; or in the event that any of its massage establishment managers permit any violation of this chapter to occur in the operation of the establishment;.

(B) Notice and Hearing

No license shall be revoked or suspended by the Town Board except upon due notice and a hearing to determine whether grounds for such action exist. The notice shall be in writing and shall state the grounds of the complaint against the licensee, including the identity of the licensee, the date of the alleged violation, the identity of the massage establishment where the violation is alleged to have occurred, the nature of the alleged violation, the possible consequences of a violation, and the procedures prescribed by this section for the conduct of the hearing. The notice shall be served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place of the hearing. The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine witnesses, and to present witnesses under the subpoena of the Town Board, if such is required. The Town Board shall decide the matter solely on the evidence adduced at the hearing and the applicable provisions of this chapter and shall prepare a written decision which includes a statement of the reasons for the decision and the evidence relied upon. The decision shall be filed with the Town Clerk, and a copy thereof mailed to the licensee within twenty (20) days after the hearing.

6.10 COMMERCIAL SEXUAL GRATIFICATION PROHIBITED

(A) It shall be unlawful for any person to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in a manner, or to massage, a sexual or genital part of another person when such activity is or can be reasonably construed as being for the purpose of sexual arousal or gratification under circumstances in which money or other consideration will be or has been received therefore or in which it is reasonably expected that money or other consideration will be received therefore.

(B) It shall be unlawful for any person to participate in any way or form of massage for money or other consideration without concealing with a fully opaque covering, the sexual or genital parts of his or her body.

(C) It shall be unlawful for any person or legal entity, for money or other consideration to offer, make available, permit, or in any way participate in the performance of any act prohibited by section 6.10 (A) and 6.10 (B).

6.11 EXCEPTIONS

Except for the provisions of section 6.10, this Chapter shall not apply to the following classes of individuals while engaged in the duties of their respective professions:

(A) Physicians, surgeons, psychologists, psychiatrists, chiropractors, osteopaths, masseurs, or physical therapists licensed or registered to practice their respective professions under the laws of the State of Wisconsin, or nurses registered under the laws of the State of Wisconsin, acting under their direction and control.

(B) Barbers and beauticians licensed under the laws of the State of Wisconsin, provided that massage as practiced by them is limited to the head and scalp.

(C) Accredited high school and college coaches and trainers while acting within the scope of their employment by a high school or college.

6.12 PUBLIC NUISANCE

Any violation of this chapter is deemed to be a public nuisance which may be enjoined by the Town.

6.15 PENALTY

Any person violating the provisions of this chapter, or any of them, shall be subject to a forfeiture of not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500) for each violation. Each violation and each day on which a violation occurs or continues shall constitute a separate offense.

6.14 SEVERABILITY

The provisions of this ordinance are severable and it is declared that the Town Board would have adopted, each provision, of this ordinance irrespective of the adoption or validity of any other provision. If any provision of this ordinance is held to be invalid, or if the application of any provision thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

6.15 DEFINITIONS

As used in this Chapter:

- A. Massage means any process or procedure consisting of rubbing, stroking, kneading or tapping, by physical or mechanical means, upon the external parts or tissues of the body of another for money or other consideration,

- B. Sexual or genital parts means the breast, buttock, anus, groin, scrotum, penis, vagina, pubic mound or perineum of a human being.
- C. Massage establishment means a place of business wherein private massage is practiced, used or made available for money or other consideration.
- D. Massage technician means a person who participates, administers or uses massage for money or other consideration.
- E. Patron means any person who receives a massage under such circumstances that it is reasonably expected that the person will pay money or give any consideration therefore.
- F. Operator means any person, corporation, or other legal entity licensed by the Town to operate a massage establishment.
- G. Manager means an operator of a massage establishment licensed under this section,
- H. Waiting area means an area adjacent to the main entrance that is separate from any area where massages are given.
- I. Massage room means the area where massage is performed.

6.16 EFFECTIVE DATE

This chapter shall take effect after adoption by the Town Board and publication or posting as required by law provided, however, that massage establishments in full operation prior to the adoption of this Ordinance shall have forty-five (45) days from the date of adoption within which to attain compliance with the provisions of this Chapter.