

## CHAPTER 121: MASSAGE ESTABLISHMENTS

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### § 121.01 DEFINITIONS.

As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this section:

***EMPLOYEE.*** Any person over 18 years of age, other than a massage therapist, who renders any service in connection with operation of a massage establishment and receives compensation from the owner or operation of the establishment or from its patrons.

***LICENSEE.*** The owner and/or operator of a massage establishment.

***MASSAGE or PRACTICE OF MASSAGE.*** Any method of applying pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, touching or stimulating, the external parts of the body, by another individual, with the hands, any body part, or with the aid of any mechanical or electrical apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments or similar preparations.



***MASSAGE ESTABLISHMENT.*** Any establishment having a fixed place of business where any person, firm, association, or corporation engages in, or carries on, or permits to be engaged in or carried on, any of the acts of massage as defined herein.

***MASSAGE THERAPIST.***

(1) Any person who, for any consideration, engages in the practice of massage as defined herein and provides proof of one of the following:

(a) Active member status in a professional massage therapy organization whose minimum standards require graduation from a recognized school, as defined herein, or the passing of a competency test for active membership.

(b) Graduation and completion of a professional level entry program which consists of 500 hours or more of in-classroom study and 100 hours or more of clinical experience in a recognized school; or

(c) Passage of the National Certification Examination in Therapeutic Massage and Bodywork (NCETMB) administered by the national Certification Board for Therapeutic Massage and Bodywork, which is approved by the National Commission for Certifying Agencies (NCCA), the accrediting arm of the National Organization for Competency Assurance (NOCA) or any other examination exhibiting proficiency in massage therapy/bodywork approved by the state or a federal certifying agency.

(d) Evidence of a professional license issued by the State of Illinois authorizing the practice of massage therapy.

(2) The following persons shall not be considered to be massage therapists for purposes of this chapter, when practicing massage within the scope of their vocation, employment, course of study or volunteer services:

(a) Physicians, physicians' assistants, surgeons, podiatrists, chiroprodists, osteopaths, chiropractors, registered nurses, practical nurses, certified nurses' assistants, physical therapists, barbers and cosmetologists licensed, registered or certified to practice in the state.

(b) Athletic trainers for any athletic program of a private or public school, college or university or for any athletic team regularly organized and engaging in competition.

(c) Any person enrolled in a school or program licensed by the state or accredited by a national accrediting association in medicine, osteopathy, chiropractic, podiatry, nursing, physical therapy, barbering or cosmetology, or massage therapy.

(d) Any person employed or working under the direction and supervision of a massage therapist as defined herein.

**MASSEUR.** Any person who, for any consideration whatsoever, engages in the practice of massage as defined herein.

**OUTCALL MASSAGE SERVICE.** Any business, the function of which is to engage in or carry on massages for compensation at a location designation by the customer or client rather than at a massage establishment.

**PATRON.** Any person who receives a massage under such circumstances that is reasonably expected that he or she would pay money or give any other form of consideration therefore.

**PERSON.** Any individual, partnership, firm, association, limited liability company, joint stock company, corporation or combination of individuals of whatever form or character.

**RECOGNIZED SCHOOL.** A state-approved school operating according to state regulations which has a current license, approval, accreditation and/or certification from the state in which it is located and provides an entry level massage training program requiring a minimum of 500 hours of in-class work in clinical training, which program shall include anatomy and physiology, kinesthetics, ethics, pathology, contraindication and clinical experience, or a massage school program accredited/approved by the Commission of Massage Training/Approval and Accreditation (COMTAA) or by the International Massage and Somatic Therapies Accreditation Council (IMSTAC) or by a similar nationally-recognized professional accrediting entity.

**SEXUAL OR GENITAL AREA.** The genitals, pubic area, anus, or perineum of any person, or the vulva or breasts of a female.  
(Ord. 1827, passed 11-19-2001; Am. Ord. 2012, passed 12-20-2004)

**§ 121.02 MASSAGE BUSINESS LICENSE REQUIRED.**

No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, the business of massage, or otherwise provide a massage in return for compensation, in the village, without first having obtained a massage business license issued by the village pursuant to the provisions of this chapter for each and every premises used for the business of conducting a massage business or otherwise providing massages for compensation by such person. The applicant for such business license must be at least 18 years of age.  
(Ord. 1827, passed 11-19-2001)

**§ 121.03 MASSAGE THERAPIST REQUIRED.**

No person shall provide a massage to another person as a masseur, employee or otherwise, on the premises for which a business license has been issued or is required under § 121.02 of this chapter unless he or she is a massage therapist.  
(Ord. 1827, passed 11-19-2001)

**§ 121.04 EXEMPTIONS.**

(A) The provisions of this chapter shall not apply to the following individuals while engaged in the performance of the duties of their respective professions, and to the following businesses and entities:

- (1) Physicians, surgeons, chiropractors, osteopaths, podiatrists, or physical therapists who are duly licensed to practice their respective professions in the state.
- (2) State-licensed practical nurses and registered nurses while administering massages in the normal course of their medical duties.
- (3) Barbers and cosmetologists who are duly licensed under the laws of this state, except that this exemption shall apply solely to the massaging of the neck, back, face, scalp, hair and hands of the customer or client for cosmetic or beautifying purposes.
- (4) Hospitals, sanitariums, nursing homes, home health agencies, hospice programs and other such programs as defined and licensed by the state under ILCS Ch. 210.
- (5) Masseurs who administer massages only to the back and/or shoulder region of fully-clothed patrons when such patrons sit in upright massage chairs.
- (6) Massages provided in the course of not-for-profit special events, such as corporate health and wellness days, fundraisers, and athletic events.
- (7) Massages provided by massage therapy students enrolled in a recognized school during the course of clinical externships, practicums or community services, provided that such massage services are part of the curricular requirements of the recognized school and are conducted under the supervision of the school's faculty and/or a massage therapist who is licensed under this chapter.

(B) No provision contained in this chapter shall be construed to apply to any person, business, or conduct regulated by the provisions of the State Physical Therapy Registration Act, ILCS Ch. 225, Act 90, §§ 1 et seq.  
(Ord. 1827, passed 11-19-2001)

**§ 121.05 APPLICATION FOR MASSAGE BUSINESS LICENSE.**

(A) An application for a massage business license shall be filed with the village. The application shall be made upon a form provided by the Village Clerk and shall be completed in full and signed by the applicant, if an individual, or by a duly authorized agent thereof, if not an individual, verified by oath or affidavit, and shall set forth:



(1) The type of ownership of the business, i.e. individual, partnership, corporation, or otherwise.

(2) The name under which the business is to be conducted.

(3) A description of the services to be provided on the premises.

(4) The location and description of the premises or place of business which is to be operated under such license.

(a) If a leased premises, a copy of the lease shall be provided. The term of such lease must not end until after the expiration date of the license for which application is being made.

(b) The name and address of the owner of the premises, and, if the premises are held in trust, the names and addresses of all the owners of the beneficial interest of the trust.

(5) All telephone numbers and Internet addresses of the business.

(6) In case of an individual, the full name, home address with zip code, Social Security number, driver's license number, date of birth, sex and a physical description of the applicant (including his or her height and weight and the color of his or her hair and eyes).

(7) In case of a partnership, the full name, home address with zip code, Social Security number, driver's license number, date of birth, sex and a physical description (including the height and weight and the color of hair and eyes) of all partners and any other persons entitled to share in the profits thereof.

(8) In case of a corporation, the object for which the corporation as organized, the names, home addresses with zip codes, driver's license numbers, dates of birth, Social Security numbers, sex and physical descriptions (including height and weight and the color of hair and eyes) of all officers, directors, and all persons owning directly or beneficially more than 10% of the stock of such corporation and the persons acting as managers or assistant managers or other persons principally in charge of the operation of the business.

(9) The date of formation of the partnership, if a partnership, the date of incorporation, if a state corporation, or the date of becoming qualified under the State Business Corporation Act, ILCS Ch. 805, Act 5, §§ 1.01 *et seq.*, to transact business in the state, if a foreign corporation.

(10) A complete list of the names (and any aliases) and residence addresses of all massage therapists and employees employed by the business and the names (and any aliases) and residence addresses of all managers, assistant managers or other persons principally in charge of the operation of the business.

(11) The business, occupation, and employment history of the applicant for the three years preceding the date of application.

(12) Whether the applicant ever made an application for license under this chapter, or a massage business license or similar license to a state, county, city, village or other unit of local government, and if so, where and when, and if such application was granted or denied, and if such application was denied, the reasons for the denial.

(13) Whether a license was ever issued to the applicant under this chapter or a massage business license or similar license was ever issued by any state, county, city or village or other unit of local government, and if so, where and when, and if such license has ever been suspended or revoked and the reasons for the suspension or revocation.

(14) Whether the applicant has ever been convicted of a violation of any of the provisions of this chapter or any ordinance of any other state municipality which regulates massage parlors or the provisions of massages, or any state statute regulating massage establishments.

(15) Proof that the applicant is at least 18 years of age.

(16) Proof that the applicant currently carries professional liability insurance in an amount not less than \$1,000,000 per occurrence.

(B) The applicant shall submit a written authorization for the village, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for a license.

(C) The applicant shall submit such other information, documentation and identification of the applicant as the Village President and/or the Chief of Police shall deem necessary to determination the identity of the applicant or to process the application.

(D) The applicant shall notify the Village President of each change in any data required to be furnished by this section within ten days after such change occurs.  
(Ord. 1827, passed 11-19-2001)

#### **§ 121.06 TERMS OF LICENSE; LICENSE FEES; LICENSE RENEWAL.**

(A) The term of licenses issued under this chapter is for one year beginning January 1, as provided by § 110.08(A).

(B) All license fees shall be paid as provided in § 110.07. The license application fee and the annual license renewal fee for a massage business license shall be \$200. In addition to that annual fee, the applicant shall provide evidence to the village that a qualified massage therapist, as defined in § 121.01, will be present on the premises to comply with the requirements of § 121.03. All applicable license fees





and any other required fees, including costs of fingerprinting, shall be paid prior to the issuance of any license.

(C) A license may be revoked for failure to pay the license fee and for those grounds stated in § 110.13.

(Ord. 1827, passed 11-19-2001; Am. Ord. 2012, passed 12-20-2004)

**§ 121.07 SANITATION AND SAFETY REQUIREMENTS.**

All licensed premises shall be periodically inspected by the Building Commissioner or his or her duly authorized representative for safety of the structure and adequacy of plumbing ventilation, heating, illumination and fire protection. In addition, the premises shall comply with the following regulations.

(A) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given.

(B) Floors shall be free from any accumulation of dust, dirt or refuse.

(C) All equipment used in the massage establishment shall be maintained in a clean and sanitary condition.

(D) Soaps, towels, linens and laundered sheets must be provided. All such towels, linens and items for the personal use of operators and patrons shall be clean and freshly laundered after each use thereof and stored in a sanitary manner.

(E) Towels, linens and sheets shall not be used for more than one patron. However, heavy white paper may be substituted for sheets, provided that such paper is changed for every patron.

(F) All massage services or practices are prohibited in any cubicle, room, booth or other area within a massage establishment which is fitted with a door capable of being locked.

(G) Toilets, dressing room facilities, lockers, steam baths, tubs or showers, if provided shall be provided separately for each sex.

(Ord. 1827, passed 11-19-2001)

**§ 121.08 ISSUANCE AND DENIAL OF LICENSES.**

(A) The Village President shall act to approve or deny an application for a license under this chapter within a reasonable period of time, and in no event shall the Village President act to approve or deny the fully completed license later than 90 days from the date that the application was accepted by the village.



(B) In the case of an application for a massage business license, the Building Commissioner shall cause the premises to be licensed to be inspected to assure that the proposed operation complies with all applicable laws, including the building, electrical, plumbing, health, housing, zoning, and fire codes of the village, and any other regulations of the village relating to the public health, safety and welfare. The Building Commissioner shall make written verification to the Village President concerning compliance with the codes and ordinances of the village.

(C) Upon receipt of a properly completed application for a massage business license, the Village President shall submit the completed application to the Chief of Police for an investigation into the applicant's personal and criminal history.

(D) The Village President shall either issue a license, or notify the applicant in writing that the application has been denied. The license shall be denied if the applicant fails to comply with the requirements of this chapter or with the requirements of any other provision of this code which is applicable to the business and/or activities of the applicant. In addition, no license shall be issued to any applicant if:

(1) The proposed operation does not comply with all applicable laws, including, but not limited to, the building, electrical, plumbing, health, housing, zoning and fire codes of the village; or

(2) The applicant, if an individual; or any of the officers, directors or any other person owning directly or beneficially more than 10% of the stock of the corporation, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager, assistant manager or any other person principally in charge of the operation of the business; has been:

(a) Convicted of a felony under the laws of the state or any other state, or under the federal laws of the United States, within five years of the date of the application;

(b) Convicted of a sex offense as defined in ILCS Ch. 720, Act 5, §§ 11-5 to 11-22, or any equivalent law of any state, within five years of the date of the application; or

(c) Convicted of a violation of any provision of this chapter.

(3) The applicant has had a massage business, masseur or similar license denied, suspended or revoked by the village, by a state or by a unit of local government within five years of the date of the application; or

(4) The applicant has knowingly made false, misleading or fraudulent statements of fact in the license application or in any document required by the village in conjunction with the license application.

(E) In the event that the license is denied for failure to comply with the requirements of this chapter, the Village President shall immediately notify the applicant in writing or by telephone of the reasons for the proposed denial. If the failure is not cured within ten days after the date on which the Village President denies the issuance of the license, the denial shall become final.

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(F) The Village President is authorized to make any rules and regulations necessary to implement this chapter which are not inconsistent with or prohibited by this chapter.  
(Ord. 1827, passed 11-19-2001)

**§ 121.09 DISPLAY OF LICENSES.**

Every person licensed as a massage business under this chapter shall display such license in a prominent place in the public reception area of the massage establishment.  
(Ord. 1827, passed 11-19-2001)

**§ 121.10 REGISTER AND REGULATION OF EMPLOYEES.**

(A) The licensee or a person designated by the licensee of a licensed massage establishment shall maintain a register of the names and addresses of all persons employed at any time as massage therapists or other employees. Such registers shall be available at the massage establishment for inspection by representatives of the village during regular business hours.

(B) It shall be unlawful for such a business to allow a massage therapist to practice other than as permitted by this chapter.  
(Ord. 1827, passed 11-19-2001)

**§ 121.11 CONDITIONS AND RESTRICTIONS OF LICENSES.**

(A) *Supervision.* A licensee of a licensed massage establishment shall have the premises supervised at all times when open for business. Any business rendering massage services shall have at least one person who is a valid massage therapist on the premises at all times while the establishment is open. The licensee shall personally supervise the business, or shall delegate such supervisory responsibility to a manager whose name is listed on the massage business license and shall not violate, or permit other to violate, any applicable provisions of this chapter. The violation of any provision of this chapter by any agent or employee of the licensee shall constitute a violation by the licensee.

(B) *Sanitary conditions.* Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition as required by § 121.07.

(C) *Price rates.* Price rates for all services shall be prominently posted on a framed placard no smaller than 8" x 10" in the reception area in a location visible and available to all prospective customers. This placard must also state the following: "No services other than those listed shall be provided for any compensation whatsoever. There shall be no bargaining or solicitation for services between patrons, massage therapists, or employees."

(D) *Employee dress code.* All employees, including massage therapists, shall be clean and wear clean, nontransparent outer garments, covering at least the entire torso and the sexual and genital areas as defined herein.

(E) *Separate license for each premises.* Licenses shall apply only to the premises described in the application, and in the license issued thereon, and only one location shall be so described in each license.

(F) *Transfer of license.* A license shall be a purely personal privilege, effective for a period not to exceed one year after issuance unless sooner revoked as provided in this chapter, and shall not constitute property. No massage business license is transferrable, separate or divisible, and such authority as a license confers shall be conferred only on the licensee named therein.

(G) *Minors prohibited.* No person licensed under the provisions of this chapter shall permit any person under the age of 18 to come or remain on the premises of any massage establishment as a masseur or employee.

(H) *Alcoholic beverages prohibited.* No person shall sell, give, dispense, provide, keep or consume, or cause to be sold, given dispensed, provided, kept or consumed, any alcoholic beverage on the premises of any massage establishment.

(I) *Solicitations prohibited.* No massage establishment shall place, publish or distribute, or cause to be placed, published or distributed, any advertisement, picture, or statement which is known to be false, deceptive or misleading in order to induce any person to purchase or utilize any massage services.

(J) *Hours of operation.* No portion of any business premises used in any way for or by a massage establishment shall be kept open for any purpose between the hours of 10:00 p.m. and 6:00 a.m. of the following day.

(K) *Inspections.* The Village President or his or her authorized representative shall from time to time make inspection of each massage establishment for the purposes of determining that the provisions of this chapter are fully complied with. It shall be unlawful for any licensee to fail to allow any such inspection officer access to the premises or hinder such officer in any manner. (Ord. 1827, passed 11-19-2001)

## § 121.12 SALE, TRANSFER, OR CHANGE OF LOCATION.

Upon the sale, transfer, or relocation of a massage establishment, the license therefore shall be null and void and a new license shall be required. Upon the death or incapacity of the licensee or any co-licensee of the massage establishment, any heir or beneficiary of a deceased licensee, or any guardian of an heir or beneficiary of a deceased licensee, may continue the business of the massage establishment for a reasonable period of time not to exceed 60 days to allow for an orderly transfer of the license.

(Ord. 1827, passed 11-19-2001)





**§ 121.13 PROHIBITED ACTS AND CONDITIONS.**

(A) No person shall conduct or operate a massage business without first obtaining and maintaining a massage business license as required by this chapter.

(B) No person shall operate or conduct any massage establishment which does not conform to the sanitary provisions required by this chapter.

(C) No person having a license under this chapter shall operate under any name or conduct business under any designation not specified in that license or permit.

(D) No person shall advertise, promote, or refer to himself or herself as a massage therapist as herein defined without being a massage therapist as provided in this chapter.

(E) A patron's sexual and genital areas, as defined herein, must be covered by towels, cloths or similar nontransparent garments, including undergarments, when in the presence of a massage therapist or employee.

(F) No person, knowingly, in a massage establishment, shall expose or fail to conceal his or her sexual and genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person, knowingly, in a massage establishment, to expose the sexual or genital parts, or any portion thereof, of any other person.

(G) No person, knowingly, in a massage establishment, shall place his or her hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital area of another person.

(H) No massage therapist or employee shall perform or offer or agree to perform any act, whether or not for compensation of any form, which would require the touching of the patron's sexual or genital area.

(I) No massage therapist shall administer a massage to a patron exhibiting any skin fungus, skin infection, skin inflammation, or skin eruption, unless a physician duly licensed by the state certifies in writing that such person may be safely massaged and prescribes the conditions thereof.

(J) No person, owning, operating or managing a massage establishment, shall knowingly cause, allow or permit in or about such massage establishment, any agent, employee, or any other person under his or her control or supervision to perform any acts prohibited by this chapter.

(K) No person shall operate or conduct an outcall massage service as defined in this chapter. (Ord. 1827, passed 11-19-2001)

**§ 121.14 ENFORCEMENT.**

The Village President shall have the duty to enforce the provisions of this chapter.  
(Ord. 1827, passed 11-19-2001)

**§ 121.15 COMPLAINT OF VIOLATION.**

Any complaint that any person, corporate or private, or any licensee, has been or is violating the provisions of this chapter shall be made to the Village President or the Village Clerk. Complaints may be made by any person, including employees and representatives of the village.  
(Ord. 1827, passed 11-19-2001)

**§ 121.16 NOTICE.**

Whenever the village is required to give notice under this chapter of denial, suspension, revocation or cancellation of a license, such notice shall be given as required by § 202.12 of the Administration Code.  
(Ord. 1827, passed 11-19-2001)

**§ 121.17 REVOCATION OR SUSPENSION OF LICENSES.**

(A) The village may suspend or revoke a massage business license after notice and public hearing, as provided in § 202.11 of the Administration Code, and upon the additional basis set forth below.

(B) A massage business license may be revoked or suspended after a public hearing if it is found that:

(1) The licensee has violated any provisions of this chapter;

(2) Any employee of the licensee, including a massage therapist, has engaged in any conduct at the licensee's premises which violates any provision of this chapter and the licensee knew or by due diligence should have known of such conduct;

(3) Any applicant for a massage business license has made a false statement on the application;

(4) A licensee has refused to allow any duly authorized police officer or county enforcement officer or health inspector to inspect the massage establishment premises;

(5) The premises of the massage establishment are at any time not in compliance with the village building, health or fire codes; or

(6) The premises of the massage establishment are not in compliance with any of the conditions and restrictions set forth in § 121.13.

(C) If a massage business license is revoked for any cause, no such license shall be granted to such person for a period of one year after the date of the revocation that will allow a massage establishment to be operated on the premises described in the revoked license unless the revocation order has been vacated by court order.

(Ord. 1827, passed 11-19-2001)

