

Chapter 215

MASSAGE ESTABLISHMENTS

[HISTORY: Adopted by the Village Board of the Village of Hustisford 3-28-1994 as Title 7, Ch. 9 of the 1994 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Licenses and permits — See Ch. 209.

§ 215-1. Compliance required.

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.

§ 215-2. Definitions.

For the purposes of this chapter, the following terms shall have the meaning indicated:

MANAGER — The operator or an agent licensed under this chapter who shall not be licensed as a massage technician.

MASSAGE — 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 a consideration.

MASSAGE ESTABLISHMENT — A place of business wherein private massage is practiced, used or made available as a principal use of the premises.

MASSAGE ROOM — The area where private massage is performed.

MASSAGE TECHNICIAN — A person who practices, administers or uses massage for a consideration.¹

OPERATOR — Any person, association, firm, partnership or corporation licensed by the Village to operate a massage establishment.

PATRON — Any person who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any consideration therefor.

SEXUAL OR GENITAL PARTS — The genitals, pubic area, buttocks, anus, or perineum of any person or the vulva or breasts of a female.

WAITING AREA — An area adjacent to the main entrance that is separate from any area where massages are given.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 215-3. Massage establishment license.

- A. No person, corporation, or other legal entity shall suffer, cause or permit the conduct of a massage establishment without having first obtained a license therefor from the Village Board. A separate license shall be acquired for each such establishment.
- B. No license shall be granted for any establishment, the main entrance to which is within 75 feet of the main entrance to a residence or of the common entry hall to residences, nor for any room or rooms in any hotel or motel.
- C. Applications shall be made in writing on forms supplied by the Village Clerk-Treasurer. If application is made for a location not previously licensed, the Village Clerk-Treasurer shall, by regular mail, notify all property owners and registered electors within 250 feet of the proposed location at least 10 days before the hearing on the granting of such license.
- D. All applications shall include:
 - (1) A nonrefundable fee as prescribed in the Village Fee Schedule.²
 - (2) The location and mailing address of the proposed establishment.
 - (3) For an individual or for each person of a partnership or joint venture or agent of a corporation:
 - (a) Name and present address.
 - (b) The two immediately previous addresses and dates of residence at each.
 - (c) Social security number and picture identification.³
 - (d) The business or occupation for the two years immediately preceding the date of application.
 - (e) Whether a similar license had been revoked or suspended and, if so, the reason therefor and the location thereof.
 - (f) Whether convicted of any crime or ordinance violation other than traffic offenses within the past three years and, if so, a listing of the same and the locations thereof.
 - (4) If the applicant is a corporation, the names and addresses of each officer and director and of the stockholders of such corporation, together with the extent of the ownership of each, and a statement whether such officer, director or stockholder holds office or stock in any other corporation conducting a similar business in the State of Wisconsin.⁴

2. Editor's Note: See Ch. A330, Fees.

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (5) All phone numbers of the proposed establishment.
 - (6) The names, addresses and phone numbers of all persons employed by the applicant at the proposed establishment at the time of application.
 - (7) Certification of compliance of the proposed premises with the Building Code and Fire Code, or in the alternative the applicant shall file a bond assuring that any work required to be done to bring the premises into compliance therewith shall be accomplished prior to the opening of business. Compliance with such codes and with the standards contained herein for health and sanitary operation and the acquisition of a health permit shall be conditions precedent to the opening of business.
 - (8) A statement signed by the applicant and each individual of a partnership or joint venture that all information contained therein is true and correct.
- E. The issuance of this license shall allow for the licensing of up to three additional managers for each establishment.

§ 215-4. Massage technicians.⁵

Any person who engages in the practice of massage as herein defined shall be certified as provided in Ch. 460, Wis. Stats.

§ 215-5. Grant or denial of license.

- A. Licenses may be granted by the Village Board after a hearing at which the applicant may be heard at the applicant's option. At least 10 days' notice of such hearing shall be given to the applicant.
- B. The Village Board shall grant a license within 30 days of application unless it is shown that:⁶
 - (1) The operation as proposed by the applicant does not comply with all applicable state laws and Village ordinances;
 - (2) The applicant or any partner or any officer, director or stockholder of a corporate applicant has been convicted in a court of competent jurisdiction of an offense under Ch. 944, Wis. Stats., or involving substances included in Ch. 961, Subch. II, Wis. Stats., or of an offense against the person or property of another within the past three years;
 - (3) The information required on the application is incomplete; or
 - (4) 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 Village in conjunction therewith.

⁵. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

⁶. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- C. In the event of denial, the applicant shall receive written notification thereof setting forth the reasons for the denial within 10 days after such denial.
- D. Licenses granted by the Board shall expire one year from the date of granting. Reapplication therefor shall be not less than 60 days prior to such expiration date and shall be the sole responsibility of the applicant.
- E. No license shall 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.⁷

§ 215-6. Regulation of operations.

- A. Each establishment shall at all times maintain and comply with the following regulations:
 - (1) The establishment shall comply with all Village codes.
 - (2) Only one nonflashing business sign clearly identifying the establishment as a massage establishment shall be posted at the main entrance. No description of services shall be permitted on such sign.
 - (3) No establishment shall be open for business between the hours of 10:00 p.m. and 8:00 a.m.
 - (4) Only massage technicians certified as provided in Ch. 460, Wis. Stats., shall be employed as massage technicians by the establishment.⁸
 - (5) The practice of all massage technicians employed by the establishment shall be limited to the licensed premises.
 - (6) No person under the age of 18 years shall be permitted on the premises.
 - (7) No intoxicating beverages or substance included in Ch. 961, Subch. II, Wis. Stats., shall be permitted in the licensed establishment. Food shall be permitted only when there is no charge therefor and when a food preparation area, including a sink with hot and cold running water, is a part of the establishment.
 - (8) The establishment shall provide a waiting area for patrons separate from any area wherein massages are given. There shall be direct access to this area from the main entrance or from the hallway connected only to the main entrance.
 - (9) The operator or a licensed manager shall be present on the premises at all times during hours of operation and shall be responsible for the operation of the establishment.
 - (10) The establishment shall permit inspections of the premises at any time during

⁷. Editor's Note: Original § 7-9-5(f), which immediately followed this section and dealt with a massage technician's license, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

⁸. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

business hours by building inspectors, fire inspectors, health inspectors, or personnel of any law enforcement agency.

- (11) The 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 of the personnel listed in Subsection A(10) above.
- (12) The establishment shall report any change of fact required on the application form and all personnel changes to the Village Clerk-Treasurer within 10 days after such changes.

B. Each technician shall at all times comply with the following regulations:

- (1) The technician shall practice only on the premises of a licensed massage establishment.
- (2) The technician shall massage only patrons over the age of 18 years.⁹

§ 215-7. Revocation or suspension of license.

A. Grounds. The license granted herein may be revoked or suspended for up to six months by the Village Board:

- (1) If the applicant has made or recorded any statement required by this chapter knowing it to be false or fraudulent or intentionally deceptive.
- (2) For the violation of any provision of this chapter, except for establishment license matters involving violations of Village codes.
- (3) If a manager's license, after one conviction of any offense under Ch. 944, Wis. Stats., or of an offense involving substances included in Ch. 961, Subch. II, Wis. Stats., or of an offense against the person or property of a patron, whether such occurred on or off the premises of the establishment.¹⁰
- (4) If an establishment license, after one conviction of any establishment personnel of an offense under Ch. 944, Wis. Stats., or of an offense against the person or property of a patron or of an offense involving substances in Ch. 961, Subch. II, Wis. Stats., where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.

B. Notice and hearing. No license shall be revoked or suspended by the Village 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. The notice shall be served upon the licensee at least 15 days prior to the date of the hearing and shall state the time and place thereof. The

9. Editor's Note: Original § 7-9-6(b)(3), (4) and (5), which immediately followed this section, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

licensee shall be entitled to be heard, to be represented, to cross-examine opposing witnesses, and to present witnesses in his or her own behalf under the subpoena of the Village Board, if such is required. The hearing shall be stenographically recorded, and a copy of the transcript shall be available to the licensee at the expense of the licensee. The Village Board shall decide the matter and shall prepare a written decision which shall be filed with the Village Clerk-Treasurer and a copy thereof mailed to the licensee within 20 days after the hearing.

§ 215-8. Exceptions.

This chapter shall not apply to the following classes of individuals while engaged in the duties of their respective professions:

- A. Physicians, surgeons, 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. Barbershops and beauty parlors, barbers and beauticians licensed under the laws of the State of Wisconsin, provided that such massage as is practiced is limited to the head and scalp.
- C. Accredited high schools and colleges and coaches and trainers therein while acting within the scope of their employment.

§ 215-9. Declaration of nuisance. ¹¹

The operation of a massage establishment without a license is deemed a public nuisance and may be enjoined by the Village.

¹¹. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).