

CHAPTER 12 MASSAGE ESTABLISHMENTS: MASSAGE SERVICES

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3-12-1 DEFINITIONS. The following words and phrases whenever used in the ordinances of the City, shall be construed as defined in this section unless, from the context, a different meaning is intended or unless different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1. "City Manager" means the City Manager of the City of Maquoketa or the City Manager's duly authorized representative.
2. "Corporate Massage" means a massage which is administered to the neck, shoulders, back, arms, hands, and fingers of the client who is clothed and seated, and without the use of oils, creams, lotions, or other preparations and is performed at the client's workplace.
3. "Corporate Massage Establishment" means an established place of business within the corporate limits of the City of Maquoketa which is not located in a structure used or occupied as a residence or living quarters and the sole purpose of the business will be to conduct business for "Corporate Massages" or services provided in "Therapy Conducted Off Massage Establishment Premises" as provided in this Chapter.
4. "Massage Establishment" means any place of business wherein any of the treatments, techniques, or method of treatment referred to in the definition of "massage or massage service" are administered, practiced, used, given, or applied.
5. "Massage or Massage Service" means any method of pressure on or friction against, or rubbing, stroking, kneading, tapping, pounding or vibrating the external parts of the body with the hand or any other body parts, or by any mechanical or electrical instrument, under such circumstances that it is reasonably expected that the individual to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or any gratuity therefor.
6. "Massage Patron" means any individual who receives, or pays to receive, a massage or massage service from a massage therapist for value.
7. "Massage Therapist" means any individual who engages in the business of performing massage or massage services on or for other individuals by use of any or all of the treatments, techniques, or methods of treatment referred to in the definition of "massage or massage service."

8. “Person” means any individual, partnership, firm, association, joint stock company, corporation, or combination of individuals of whatever form or character.
9. “Person of Good Moral Character” shall mean any person who meets all of the following requirements:
 - a. The person has such financial standing and good reputation as will satisfy the issuing authority that the person will comply with this Chapter and with all laws, ordinances, and regulations applicable to the person’s operations under this Chapter.
 - b. Said person has not held a license under this Chapter which has been revoked during the year last preceding the date of application.
 - c. Said person has not been convicted of a felony involving moral turpitude. However, if this conviction of a felony occurred more than five years before the date of the application for a license under this Chapter, and if said person’s rights of citizenship have been restored by the Governor, the issuing authority may determine that the person is of good moral character notwithstanding such conviction.
10. “Recognized School” The term recognized school means any school or educational institution licensed by the appropriate public authorities to do business as a school or educational institution in the State in which it is located, or recognized by or approved by or affiliated with the American Massage Therapy Association Incorporated, and which it has for its purpose the teaching of the theory, method, profession, or work of massage, provided such schools require an in-classroom course of training of not less than 500 hours before the student shall be furnished a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning, except persons qualifying with lesser hours as provided in Section hereafter.
11. “Sporting Event” A pre-scheduled organized event where supervised sporting activities are performed under the jurisdiction of a sponsor which is open to the public.
12. “Workplace” An established place maintained by an employer where employees regularly report to work each working day designed for the principle purpose of performing scheduled work activities for the employer for compensation.

3-12-2 COMPLIANCE REQUIRED. No person shall provide, engage in, operate, own, conduct, carry on or permit to be provided, engaged in, operated, owned, conducted or carried on any massage or massage service of any type or kind including, but not limited to, massage establishment, corporate massage establishment, massage parlor, massage service business or any massage business or service offered in conjunction with or as part of any health club, health spa, resort or health resort, gymnasium, athletic club, or any other business, without compliance with the provisions of this Chapter. No person shall perform the services, duties, or work of a massage therapist except in compliance with the provisions of this Chapter.

3-12-3 EXEMPTIONS. The following persons and institutions are excluded from the operation of this Chapter.

1. Persons licensed by the State of Iowa under the provisions of Chapters 148, 148B, 150, 150A, 151, 152, 157 and 158 of the Iowa Code, when performing massage therapy or massage services as a part of the profession or trade for which licensed.
2. Persons performing massage therapy or massage services under the direct supervision of a person licensed as described in paragraph A above.
3. Persons performing massage therapy or massage services upon a person pursuant to the written instruction or order of a licensed physician.
4. Nurses' aides, technicians, and attendants at any hospital or health care facility licensed pursuant to Chapters 135B, 135C or 145A of the Iowa Code, in the course of their employment and under the supervision of the administrator thereof or of a person licensed as described in paragraph A above.
5. An athletic coach or trainer:
 - a. In any accredited public or private school, or
 - b. Employed by a professional or semi-professional athletic team or organization, in the course of his or her employment as such coach or trainer.

3-12-4 LICENSES FOR MASSAGE ESTABLISHMENTS.

1. No person shall provide, engage in, operate, own, conduct, carry on or permit to be provided, engaged in, operated, owned, conducted or carried on any massage business in the City unless the premises at which said massage business is located meet the minimum standards set forth in Section 3-11-12 of this Chapter and unless a license to operate a massage establishment is obtained from the City in compliance with the provisions of this Chapter.
2. Any person seeking a license to operate a massage establishment shall make application therefor to the City Clerk. The Clerk shall cause an investigation of such application and of the background of the applicant to be made by the Police Department, the results of such investigation shall be reported to the City Council. The Clerk shall also cause an investigation to be made by the Fire Department and City Inspector to determine that all requirements of this Chapter have been satisfied and that the applicant has fully complied with all applicable ordinances and regulations to buildings, zoning, fire and health.
3. The application shall contain the following:
 - a. The full name, address, and social security number of the applicant, as well as any aliases by which the applicant has been or is currently known.
 - b. The full name of the business, the address of the premises for which the application is being made, and all telephone numbers where the business is to be conducted.
 - c. The criminal record of the applicant, if any.
 - d. A statement that the applicant is of good moral character.
 - e. A sworn statement that the contents of the application are true.

- f. Proof that the applicant is an adult.
 - g. The type of business entity such as sole proprietorship, partnership or corporation and, in the case of a corporation, the names and residence addresses of all officers and directors of the corporation and of each stockholder holding ten percent or more of the stock of said corporation: in the case of a partnership, the names and residence addresses of all partners including limited partners of the partnership.
 - h. All information required herein of any applicant shall also be required of every person who, directly or indirectly, has any right to participate in the management or control of the business to be conducted at the premises of the proposed massage establishment.
 - i. The name and address of the owner of the building where such massage establishment will be located.
 - j. Certified copies of any lease or rental agreement governing the applicant's right in said building.
 - k. The signature of the applicant or applicants or, if the application is in the name of a corporation, the signature of each officer of the corporation: if the application is in the name of a partnership, the signature of each partner, including limited partners, of the partnership.
4. Fees shall be charged for massage establishment licenses in conformity with a schedule of fees adopted by resolution of the City Council.
 5. The Building, Fire and Police Departments shall make written reports of their investigations and shall submit such reports to the City Clerk within 45 days of the application. The City Clerk shall then place the matter before the City Council. If the City Council finds that the applicant has fully complied with all requirements of this Chapter and with all applicable ordinances and codes regulating fire, buildings, health and zoning and that the applicant is of good moral character, the City Council shall authorize the issuance of a license to conduct a massage business at the location designated in the application. Such license shall expire one year from the date of issuance.
 6. Each massage establishment shall have a separate license for each place of business, which shall be valid only for the business conducted at that location.
 7. Each massage establishment shall display its license conspicuously in the lobby or waiting room area where such license may be readily observed by all persons entering such premises.
 8. No massage establishment license shall be sold or transferred. The purchaser or purchasers of any massage establishment or of the majority of the stock of any corporation operating a massage business shall obtain a new license before operating such business at the location for which the license has been issued or at any other location.

3-12-5 LICENSES FOR CORPORATE MASSAGE ESTABLISHMENTS.

1. Any person seeking a license to operate a corporate massage establishment shall make application therefor to the City Clerk. The Clerk shall cause an investigation of such

application and of the background of the applicant to be made by the Police Department. The results of such investigation shall be reported to the City Council. The Clerk shall also cause an investigation to be made by the City Inspector to determine that all requirements of this Chapter have been satisfied and that the applicant has fully complied with all applicable ordinances and regulations relating to buildings and zoning.

2. The application shall contain the following:
 - a. The full name, address, and social security number of the applicant, as well as any aliases by which the applicant has been or is currently known.
 - b. The full name of the business, the address of the premises for which the application is being made, and all telephone numbers where the business is to be conducted.
 - c. The criminal record of the applicant, if any.
 - d. A statement that the applicant is of good moral character.
 - e. A sworn statement that the contents of the application are true.
 - f. Proof that the applicant is an adult.
 - g. The type of business entity such as sole proprietorship, partnership or corporation and, in the case of a corporation, the names and residence addresses of all officers and directors of the corporation and of each stockholder holding 10 percent or more of the stock of said corporation: in the case of a partnership, the names and residence addresses of all partners including limited partners of the partnership.
 - h. All information required herein of any applicant shall also be required of every person who, directly or indirectly, has any right to participate in the management or control of the business to be conducted at the premises of the proposed corporate massage establishment.
 - i. The name and address of the owner of the building where such corporate massage establishment will be located.
 - j. Certified copies of any lease or rental agreement governing the applicant's right in said building.
 - k. The signature of the applicant or applicants or, if the application is in the name of a corporation, the signature of each officer of the corporation: if the application is in the name of a partnership, the signature of each partner, including limited partners, of the partnership.
3. Fees shall be charged for corporate massage establishment licenses in conformity with a schedule of fees adopted by resolution of the City Council.
4. The City Inspector shall make a written report of their investigations and shall submit such reports to the City Clerk within 45 days of the application. The City Clerk shall then place the matter before the City Council. If the City Council finds that the applicant has fully complied with all requirements of this Chapter and with all applicable ordinances and codes regulating fire, buildings, health and zoning and that the applicant is of good moral character, the City Council shall authorize the issuance of a license to conduct a corporate massage business at the location designated in the application. Such license shall expire one year from the date of issuance.
5. Each corporate massage establishment shall have a separate license for each place of business, which shall be valid only for the business conducted at that location.

6. Each corporate massage establishment shall display its license conspicuously in the lobby or waiting room area where such license may be readily observed by all persons entering such premises.
7. No corporate massage establishment license shall be sold or transferred. The purchasers of any corporate massage establishment or of the majority of the stock of any corporation operating a massage business shall obtain a new license before operating such business at the location for which the license has been issued or at any other location.

3-12-6 SUSPENSION OR REVOCATION OF LICENSE. The massage establishment license or corporate massage establishment license of any licensee may be suspended or revoked for violation of any of the provisions of this Chapter, or for failure to comply with applicable fire regulations, building regulation, or health ordinances, or statutes, or for permitting massage therapists, who are either employed by the licensee or who are allowed by the licensee to perform the services or work of a massage therapist upon the premises of the licensee, to violate the provisions of this Chapter.

In the event the City Manager is apprised of information indicating that grounds for suspension or revocation of a massage establishment license or a corporate massage establishment license may exist, the Commissioner shall cause an investigation of such grounds to be made by the appropriate City department or departments and shall advise the City Council in writing of the results of the investigation. If the City Council determines that the report reveals the probable existence of grounds for suspension or revocation, it shall direct written notice by ordinary mail to the licensee named on the application at the massage establishment address informing such person of its intention to hold a public hearing on the question of whether such license should be suspended or revoked and the grounds therefor, stating the date and time of said hearing. Upon said hearing if the City Council shall determine that such cause does exist:

1. If the determination is the first such for that licensee, it may suspend the license for up to one month, and thereupon such licensee shall cease massage business at that location and at any other location for the period of suspension.
2. If the determination is the second or subsequent such for that licensee, it may revoke the license at that location, and no massage establishment license or corporate massage establishment license shall be issued nor shall such businesses be conducted at that location for a period of one year, nor shall the licensee be permitted to conduct such business in the City at any location for that period.

Nothing herein shall be deemed to deny to any licensee claiming to be aggrieved by suspension or revocation of a license issued hereunder any applicable judicial remedies provided for by the laws of the State of Iowa.

3-12-7 MASSAGE THERAPIST LICENSE. No individual shall perform the services, duties, or work of a massage therapist without first receiving a massage therapist license from the City Clerk. Such license shall not be required for the owner of a licensed massage establishment who performs the services, duties or work of a massage therapist in his or her own establishment provided such individual provides

the information required in subsection C5 and C7 hereof on the application for massage establishment license, and states that such owner will be a massage therapist at such establishment. Each massage therapist who on the effective date of this Chapter is performing massage and massage service within the City must comply with the application and licensing provisions of this Chapter within thirty (30) days of such effective date. Failure to so comply shall place such massage therapist in violation of the Section.

Any individual seeking a massage therapist license shall make application therefor to the City Clerk. The City Clerk shall cause an investigation into the background of such applicant to be made by the Police Department. The results of said investigation shall be reported to the City Council.

The application shall contain the following information:

1. The full name, address, age, and social security number of the applicant, as well as any aliases by which the applicant is currently or has been known.
2. The criminal record of the applicant, if any.
3. A statement that the applicant is of good moral character.
4. Proof that the applicant is an adult.
5. A list of all training in massage that the applicant has received.
6. A sworn statement that the contents of the application are true.
7. A certificate issued by a licensed physician certifying the applicant is in good health as may be required by the Police Department in its investigation.
8. The name and location of the licensed massage establishment and/or corporate massage establishment where the applicant will be employed.
9. The name and address of the recognized school attended, the dates attended, a copy of the diploma or certificate of graduation awarded the applicant showing the applicant has completed not less than 500 hours of in classroom instruction. The 500-hour requirement does not apply to persons licensed by the City of Maquoketa prior to January 20, 1986, provided such persons completed the required number of hours of in-classroom instruction in effect before the 500-hour requirement was enacted.

The Police Department shall make a written report of its investigation to the City Clerk within thirty (30) days of the application. Upon receipt of the police report and all of the information required to be included in the application, the City Clerk shall place the matter before the City Council. If the City Council finds that the applicant has fully complied with all requirements of this Chapter, and that the applicant is a person of good moral character, the City Council shall authorize the issuance of a massage therapist license to the applicant. The license shall expire one year from the date of issuance.

The massage therapist license, when issued, shall be valid only for the massage establishment and/or corporate massage establishment listed on the application. A massage therapist changing place of employment shall have his or her license amended by the City Clerk to show that the establishment proposing such employment holds a valid massage establishment license before commencing work for a

new employer. The City Clerk shall notify the Police Department immediately of the amendment of any massage therapist license.

All massage therapists who have licenses issued pursuant to this Chapter shall keep said licenses at their place of employment as massage therapists except in the case of providing the service of a corporate massage, a home massage treatment, or at a sporting event. The massage therapist shall be able to, upon request of the client or City employees exhibit the license as evidence of compliance with all requirements of this Chapter.

The fee for a massage therapist license and for amendment of massage therapist's license shall be as established by resolution of the City Council.

3-12-8 SUSPENSION OR REVOCATION OF MASSAGE THERAPIST LICENSES. The massage therapist license of any massage therapist may be suspended or revoked for any violation of this Chapter, or any State or local laws or ordinances or regulations.

The City Manager may, upon receipt of information alleging that grounds exist to suspend or revoke the massage therapist license of any license holder under this Chapter, report the circumstances to the City Council, which shall in such case cause a notice to be sent by ordinary mail to the licensee which notice shall state that a suspension or revocation hearing has been set before the City Council, the grounds for the proposed suspension or revocation, the date and time of the hearing and the place where the hearing will be conducted. Upon said hearing, if the City Council shall determine that such grounds do exist, it may suspend or revoke the license. In the event such license is revoked, no massage therapist license shall be issued to that licensee for a period of one year.

Nothing herein shall be deemed to deny to any massage therapist license holder claiming to be aggrieved by suspension or revocation of a massage therapist license any applicable judicial remedies provided for by the laws of the State of Iowa, including right to appeal to District Court.

3-12-9 MASSAGE THERAPIST INTERN LICENSE. Any individual seeking a massage therapist intern license shall be currently enrolled in a recognized school and shall make application therefor to the City Clerk. The City Clerk shall cause an investigation into the background of such applicant to be made by the Police Department. The results of said investigation shall be reported to the City Council.

The application shall contain the following information:

1. The full name, address, age, and social security number of the applicant, as well as any aliases by which the applicant is currently or has been known.
2. The criminal record of the applicant, if any.
3. A statement that the applicant is of good moral character.
4. Proof that the applicant is an adult.
5. A list of all training in massage that the applicant has received.

6. A sworn statement that the contents of the application are true.
7. A certificate issued by a licensed physician certifying the applicant is in good health as may be required by the Police Department in its investigation.
8. The name and location of the recognized school where the applicant is enrolled and the date enrolled.
9. A sworn statement or a certificate of completion from the recognized school that the applicant has satisfactorily completed not less than 250 hours of in-classroom instruction.

The Police Department shall make a written report of its investigation to the City Clerk within thirty (30) days of the application. Upon receipt of the Police report and all of the information required to be included in the application, the City Clerk shall place the matter before the City Council. If the City Council finds that the applicant has fully complied with all requirements of this Chapter, and that the applicant is a person of good moral character, the City Council shall authorize the issuance of a massage therapist intern license to the applicant. The license shall expire 120 days from the date of issuance.

All massage therapist interns who have licenses issued pursuant to this Chapter shall be able to, upon request of the client or City employees, exhibit the license or evidence of compliance with all requirements of this Chapter.

No licensed massage therapist intern shall receive compensation of any kind for providing a massage service other than for credit to be applied to the completion of the requirements for graduation from the recognized school in which they are enrolled.

The recognized school in which the licensed massage therapist intern is enrolled shall maintain a record of where and when an intern provides a massage service. Said record shall be made available for review upon request of the City Manager or the Chief of Police.

The fee for a massage therapist intern license shall be as established by resolution of the City Council.

3-12-10 THERAPY CONDUCTED OFF MASSAGE ESTABLISHMENT PREMISES. Massages may be administered in the client's home, at the client's work place, or at a sporting event, by any massage therapist having a license issued in accordance with this Chapter, and provided the massage therapist complies with all the requirements of this Chapter, except those specifically relating to the requirements of a massage establishment.

No massage therapist shall administer any massage services at a location which does not conform to or comply with the standards set forth in Section 3-11-12 of this Code, except when a corporate massage, a home massage treatment, or a massage service at a sporting event is administered.

When a corporate massage is administered, or a massage service is provided at a sporting event, the massage therapist shall wash his or her hands using soap or disinfectant before and after administering a massage to each client.

All corporate massages and massage services at sporting events shall meet and comply with all of the applicable health regulations of State and local regulatory bodies.

No corporate massage shall be administered between the hours of 10:00 p.m. and 7:00 a.m.

3-11-11 HOME MASSAGE TREATMENT. Massages may be administered in the client's home by any massage therapist having a license issued in accordance with this Chapter.

3-12-12 HEALTH STANDARDS. Every massage establishment and massage therapist shall comply with the following health standards.

No massage establishment shall be established, maintained, or operated in the City that does not conform to or comply with the following standards:

1. Each room or enclosure where massage services are performed on patrons shall be provided with a minimum of four-foot candles of light as measured four feet above the floor.
2. The premises shall have adequate equipment for disinfecting and cleaning non-disposable instruments and materials used in administering massage services. Such materials and instruments shall be cleaned after each use.
3. Hot and cold running water shall be available at all times.
4. Closed cabinets shall be provided and used for the storage of all equipment, supplies and clean linens. All used disposable materials and soiled linens and towels shall be kept in covered containers or cabinets, which containers or cabinets shall be kept separate from clean storage cabinets.
5. Clean linen and towels shall be provided for each massage patron. No common use of towels or linens shall be permitted.
6. All massage tables, bathtubs, shower stalls, sauna baths, steam or bath areas and all floors shall have surfaces which may be readily cleaned.
7. Oils, creams, lotions, or other preparations used in administering massages shall be kept in clean containers or cabinets.
8. Adequate bathing, dressing, locker, and toilet facilities shall be provided for all patrons served at any given time. All patrons' lockers shall be lockable. In the event male and female patrons are to be served simultaneously, separate bathing, dressing, locker, toilet, and massage room facilities shall be provided.
9. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and showers shall be thoroughly cleaned after each use.
10. Each massage therapist shall wash his or her hands in hot running water using soap or disinfectant before and after administering a massage to each patron.

11. The premises shall be equipped with a service sink for custodial services which sink shall be located in a janitorial room or custodial room separate from massage service rooms.
12. No person shall consume food or beverages in massage work areas.
13. Animals, except for seeing-eye dogs, shall not be permitted in massage establishments.
14. All massage establishments shall continuously comply with all applicable building, fire or health ordinances and regulations.

No massage therapist shall administer a massage:

1. If said massage therapist believes, knows, or should know that he or she is not free of any contagious or communicable disease or infection.
2. To any massage patron exhibiting any skin fungus, skin infection, skin inflammation or skin eruption: provided, however, that a physician duly licensed to practice in the State of Iowa may certify that such a person may be safely massaged prescribing the conditions therefor.
3. To any person who is not free of communicable disease or infection or whom the massage therapist believes or has reason to believe is not free of communicable disease or infection.

3-12-13 UNLAWFUL ACTS. It shall be unlawful for any person to do any of the acts hereinafter stated:

1. No massage patron receiving a massage shall caress or fondle the massage therapist administering the massage.
2. No massage therapist shall masturbate or fondle the genital areas of a massage patron.
3. No massage therapist shall administer a massage to a massage patron unless such therapist's sexual and genital body parts are completely covered by opaque clothing.
4. No massages shall be administered to massage patrons of different sexes in the same room or enclosure at the same time.
5. No massage therapist shall administer any massage services, and no massage patron shall receive a massage from a massage therapist, at any place other than a massage establishment licensed in accordance with this Chapter, except in accordance with the provisions made in this Chapter for home massage treatment, a corporate massage, or a massage service at a sporting event.
6. No massage establishment licensee shall allow or knowingly permit massage therapists in his or her employ to administer massage services to a massage patron at any location other than a massage establishment covered by a license issued in accordance with this Chapter, except in accordance with the rules and regulations that relate to corporate massage and home massage treatment or a massage service at a sporting event.

7. No person shall permit any person under the age of eighteen (18) years to come or remain on the premises of any massage establishment as massage therapist, employee, or patron, unless such person is on the premises on lawful business.
8. No person shall sell, give, dispense, provide, keep or cause to be sold, given, dispensed, provided or kept any alcoholic beverages or beer in any massage establishment except on licensed premises holding a liquor license or beer permit as provided by the laws of Iowa.
9. No massage establishment shall be kept open for any purpose between the hours of 10:00 p.m. and 7:00 a.m.

3-12-14 INSPECTION REQUIRED. The Chief of Police or his or her authorized representatives shall be authorized to make inspections of each massage establishment and corporate massage establishment for the purposes of determining that the provisions of this Chapter are fully complied with.

Penalty. Any person, firm or corporation violating any provision, section or paragraph of this Ordinance shall be guilty of a municipal infraction. Each day a violation occurs shall constitute a separate offense.

(Ord. 991, 04-19-2004) (Ord. 1142, 06-02-2018)

Separability of Provisions. It is the intention of the Council that each section, paragraph, sentence, clause, and provision of this Ordinance is separable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance nor any part thereof other than that affected by such decision.

That the changes as provided in this Ordinance shall be made a part of the replacement pages of the City Code, City of Maquoketa, Iowa, and made a part of said Code as provided by law.

(Ord. 740, 01-21-1991)

TITLE III COMMUNITY PROTECTION

