

## Chapter 197

### MASSAGE ESTABLISHMENTS

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[HISTORY: Adopted by the Board of Trustees of the Village of Port Byron 3-18-1996 by Ord. No. 96-18-3 (Title 2, Ch. 2, Art. 16, of the 1993 Code). Amendments noted where applicable.]

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#### § 197-1. Definitions.

For the purpose of this article, the following terms shall have the meanings ascribed to them in this section:

**EMPLOYEES** — Any and all persons other than the masseurs or masseuses, who render any service to the permittee, who receive compensation directly from the permittee, and who have no physical contact with customers and clients.

**HEALTH OFFICER** — The health officer of the Village of Port Byron, the County of Rock Island, or their authorized representative.

**MASSAGE** — Is the practice of a profession, scientifically applied to the patient by the operator's hands.

**MASSAGE THERAPIST** — Any person who practices or administers all or any of the following named subjects, and who has made a study of the underlying principals of anatomy and physiology as generally included in a regular course of study by a recognized and approved school of massage: The art of body massage either by hands or with a mechanical or

vibratory apparatus for the purpose of body massaging, reducing or contouring; the use of oil rubs, heat lamps, salt glows, hot and cold packs, tub, shower or cabinet baths. Variations of the following procedures are employed: Touch, stroking, friction, kneading, vibration, percussion and medical gymnastics. Massage therapists shall not diagnose or treat classified diseases, nor practice spinal or other joint manipulations, nor prescribe medicines or drugs.

**MASSAGE ESTABLISHMENTS** — Shall be construed and deemed to mean any massage establishment or place of business wherein massage as to all or any one or more of the above-named subjects and methods of treatments, as defined in this section, is administered or used.

**PERMITTEE** — The operator of a massage establishment.

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

**§ 197-2. Massage establishments to be licensed.**

- A. It shall be unlawful for any person to operate or conduct any massage establishment without a massage establishment license issued pursuant to the provisions of this article.
- B. It shall be unlawful for a licensed massage establishment to employ any person as a massage establishment operator, or massage therapist who does not meet the qualifications set forth in this article.
- C. It shall be unlawful for any person to engage in the practice, attempt to practice, or hold themselves forth as practicing, massage, whether for a fee or gratuitously, or to conduct massage, who does not meet the qualifications set forth in this article.
- D. It shall be unlawful for a massage therapist to engage in the practice of massage or to conduct massage other than in a license massage establishment unless the massage has been prescribed for the person receiving same by a person exempt from licensing in § 197-3 and the person receiving same is medically incapable of visiting the massage establishment.

**§ 197-3. Exceptions to provisions of article.**

The requirements of this article shall have no application and no effect upon and shall not be construed as applying to hospitals, nursing homes, sanitarium, physicians, surgeons, chiropractors, osteopaths, or any nurse working under the supervision of a physician, surgeon, chiropractor, or osteopath duly licensed to practice said respective professions in this state. Practical nurses or other persons without qualifications as massage therapists, whether employed by physicians, surgeons, chiropractors, or osteopaths or not, may not render massage or massage procedures. Nor shall this article apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by the state.

**§ 197-4. Application and fee.**

- A. Any person desiring to obtain a license to operate a massage establishment shall make application to the Village Clerk, who shall refer all such applications to the Chief of Police, the Fire Chief, Building Inspector, and Rock Island County Health Department. These departments shall within 30 days inspect the premises proposed to be operated as a massage establishment and make written recommendations to the Village Clerk concerning compliance with the codes that they administer.
- B. Within 10 days of receipt of the recommendations of the aforementioned departments, the Village Clerk shall notify the applicant that his/her application is granted, denied or held for further investigation. The period of such additional investigation shall not exceed an additional 30 days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation the Village Clerk shall advise the applicant in writing whether the application is granted or denied.
- C. Whenever an application is denied or held for further investigation, the Village Clerk shall advise the applicant in writing of the reasons for such action.
- D. Each massage establishment license application shall be accompanied by license fee of \$100.
- E. A license issued pursuant to this article shall be renewed annually, and shall exist for a term of one year from the first day of April unless sooner suspended or revoked. At the end of the license term, the license shall expire and cease to be a license unless renewed. All persons who operate a massage establishment must file applications for renewal of permits not more than two months nor less than one month prior to termination of an existing license.
- F. The failure or refusal of the applicant to promptly give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding the said application or his or her refusal to submit to or cooperate with any inspection required by this article shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the Village Clerk.

**§ 197-5. Contents of application, massage establishment.**

- A. The application for a permit to operate a massage establishment, shall set forth the exact nature of the massage to be administered and the proposed place of business and facilities therefore.
- B. In addition to the foregoing, any applicant for a permit, including any partner or limited partner of a partnership application, and any officer or director of a corporate applicant and any stockholder holding more than 10% of the stock of a corporate applicant shall furnish the following:

- (1) Full name and current address;
- (2) The two previous addresses of the applicant immediately prior to the current address;
- (3) Written proof that the applicant is at least 18 years of age;
- (4) Applicant's height, weight, and color of eyes and hair;
- (5) The business, occupation or employment of the applicant for the three years immediately preceding the date of the application;
- (6) The massage or similar business license history of the applicant, including whether such person in previous operation in this or another area has had a license revoked or suspended, the reason therefore, and any business activity or occupation subsequent to the action of suspension or revocation;
- (7) All criminal or city ordinance violation convictions, forfeiture of bond on all charges, except minor traffic violations.
- (8) The names and credentials of all employees of the establishment (and there shall be a continuous obligation to notify the Village Clerk within 10 days after any employee is terminated or hired);
- (9) A set of plans of the building in which the business will be conducted to comply with the ordinance;
- (10) The address and phone number of the business;
- (11) If the applicant is a corporation, or a partner of a partnership is a corporation, the name of the corporation shall be set forth exactly as shown in its Articles of Incorporation, and any shareholders having more than 10% ownership in the Corporation.

**§ 197-6. Education and training requirements, massage therapist.**

Massage therapists employed by licensed massage establishments shall meet the following requirements, massage therapists must possess a diploma or certificate of graduation from a recognized school or other institution of learning wherein the methods, profession and work of massage therapists are taught. The terms "recognized school" shall mean and include any school or institution of learning which is accredited by a state instrumentality (State Board of Education; State Board of Independent Vocational, Technical, Trade and Business Schools; Department of Public Instruction, etc.) or other unit of educational accreditation (such as: The American Massage Therapy Association (A.M.T.A); The National Association of Trade & Technical Schools (N.A.T.T.S.); The Associated Body Work and Massage Professionals (A.B.M.P.)) and has for its purposes the teaching of the therapy, method, profession of work of massage therapists, which school requires a resident course of study of not less than 500 hours to be given in not less than six calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning showing the successful completion of such course of study or learning. Schools offering

correspondence courses and not requiring actual class attendance shall not be deemed recognized schools. The applicant, on the request of the Village, must confirm the fact that said applicant actually attended classes and matriculated in a recognized school and/or provide documentation that such school meets the requirements set forth as a "recognized school".

**§ 197-7. Operating requirements.**

- A. Cleanliness. Every portion of a massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition. Adequate equipment for disinfecting and sterilizing any instruments used for massage shall be provided and used after each massage.
- B. Employees, dressing rooms. All employees shall be clean and shall wear suitable clean outer garments whose use is restricted to the massage establishment. A separate dressing room for each sex must be available on the premises with individual lockers available for each employee and for each customer. Said lockers shall be equipped with a key lock or number combination locking device. Doors to such dressing rooms shall open inward and shall be self-closing.
- C. Linens. All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity which shall be laundered after each use thereof and stored in an approved, sanitary manner. No towels or sheets shall be laundered or dried in any massage establishment unless such establishment is provided with approved laundry facilities for such laundry and drying. Approved receptacles shall be provided for the storage of soiled linens and paper towels. Closed cabinets shall be provided for the storage of clean linen.
- D. Bathrooms, etc. Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.
- E. Residential uses. Residential living will not be allowed within the building licensed as the massage establishment. Any room used for massage shall not be used for residential or sleeping purposes.
- F. Advertising. No massage establishment granted a license under the provisions of this article shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than those services as described in § 197-1 of this chapter, nor shall any massage establishment indicate in the text of advertising that any service is available other than those services as described in said section.
- G. Locked room. No massage service may be carried on within any cubicle, room, booth or any area within a massage establishment which is fitted with a door capable of being locked.

**§ 197-8. Facilities necessary, limitations.**

No license to conduct a massage establishment shall be issued unless an inspection by the appropriate Village inspectors discloses that the establishment complies with each of the following minimum requirements:

- A. A readable sign shall be posted at the main entrance identifying the establishment as a massage establishment, provided also that all such signs shall otherwise comply with the general sign requirements of the Village of Port Byron.
- B. Construction of rooms used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproofed materials and shall be installed in accordance with the Village's building code. Plumbing fixtures shall be installed in accordance with the Village's plumbing code.
  - (1) For toilet rooms, toilet room vestibules and rooms containing bathtubs, there shall be a waterproof floor covering, which will be carried up all walls to a height of at least six inches. Floors shall be covered up on bases with at least three-fourths-inch cover. The walls of all toilet rooms and rooms containing bathtubs shall be finished to height of six feet with a smooth, non-absorbent finish surface of Keene cement, tile or similar material.
  - (2) Steam rooms and shower compartments shall have waterproof floors, walls, and ceilings approved by the Building Inspector.
  - (3) Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sewer. (Exception: Dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.)
  - (4) A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.
- C. Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinal may be substituted for water closets after one water closet has been provided. All toilet rooms shall be equipped with self-closing doors opening in the direction of ingress to the toilet rooms. Toilets shall be designated as to the sex accommodated therein.
- D. Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or the vestibule. Lavatories or washbasins shall be provided with soap in a dispenser and with sanitary towels.
- E. Minimum lighting and ventilation shall be provided in accordance with the Uniform Building Code, and, additionally, at least one artificial light of not less than 100 watts shall be lit in each enclosed room, cubicle or booth while massage services are being rendered. All portions of massage establishments and baths shall be provided with adequate light and ventilation by means of windows or skylights with an area of not less than one-eighth of the total floor area, or shall be provided with approved artificial light and a mechanical operating ventilation system. When windows or skylights are used for

ventilation, at least on-half of the total required window area shall be operable. To allow for adequate ventilation, cubicles, rooms and areas provided for patrons' use not served directly by a required window, skylight or mechanical system of ventilation shall be constructed so that the height of the partitions does not exceed 75% of the floor-to-ceiling height of the area in which they are located.

- F. All electrical equipment shall be installed in accordance with the requirements of the Village's electrical code.

**§ 197-9. Issuance.**

Upon payment of the application fee, submitting of all information required by application, upon receipt of the recommendations of the departments referred to in § 197-4 of this chapter that the establishment is in compliance with all of the requirements of §§ 197-8 and 197-9 of this chapter, the Village Clerk shall issue a permit to maintain, operate or conduct a massage establishment, unless he or she finds:

- A. It appears that any such applicant has deliberately falsified the application; or
- B. That the operation as proposed by the applicant, if permitted, would not have complied with all applicable laws, including but not limited to, the building, health, planning, housing, zoning and fire codes of the Village; or
- C. That the applicant and any other person who will be directly or indirectly engaged in the management and operation of a massage establishments has been convicted of:
- (1) A felony.
  - (2) An offense involving sexual misconduct with children.
  - (3) Prostitution, soliciting for a prostitute, pandering, keeping a place of prostitution, or pimping.

**§ 197-10. Nontransferrability of license.**

- A. All licenses issued hereunder are nontransferrable, provided, however a change of location of a massage establishment may be permitted pursuant to the provisions hereof.
- B. Upon the death or incapacity of the permittee the massage establishment may continue in business for a reasonable time to allow for an orderly transfer of the permit.

**§ 197-11. Display of license.**

Every person to whom a license shall have been granted shall display said license in a conspicuous place.

**§ 197-12. Change of location.**

A change of location of the massage premises shall be approved by the Village Clerk, provided all general ordinances are complied with and the change of location fee of \$5 is first paid.

**§ 197-13. Massage therapists to be registered.**

- A. It shall be the responsibility of the holder of the license for a massage establishment to insure that each person employed as a massage therapist shall have been registered with the Village Clerk within five days of his or her employment.
- B. It shall be unlawful for any owner, proprietor, manager, or other person in charge of any massage establishment to employ any person who is not at least 18 years of age.
- C. The massage establishment licensee shall yearly, at the time of license renewal, register all massage therapist employed.
- D. The massage establishment licensee shall submit the following information to the Village Clerk for each massage therapist employed:
  - (1) Full name and current address;
  - (2) The two previous addresses of the employee immediately prior to the current address;
  - (3) Written proof that the employee is at least 18 years of age;
  - (4) Employee's height, weight, and color of eyes and hair;
  - (5) The business, occupation or employment of the employee for the three years immediately preceding the date of employment;
  - (6) The massage or similar business license history of the employee, including whether such person in previous operation in this or another area has had a license revoked or suspended, the reason therefore, and any business activity or occupation subsequent to the action of suspension or revocation;
  - (7) All criminal or city ordinance violation convictions, forfeiture of bond on all charges, except minor traffic violations.
  - (8) A copy of the employee's diploma or certificate or graduation.

**§ 197-14. Hours of operation.**

- A. 7:00 a.m. to 11:00 p.m. Monday through Saturday inclusive.
- B. Sunday hours shall be 11:00 a.m. to 10:00 p.m.



**§ 197-15. Persons not to remain on premises after closing hours; exceptions.**

- A. Except as otherwise provided in this section, no person holding a license issued pursuant to this chapter shall remain on the licensed premises after the closing hours, except:
  - (1) The licensee.
  - (2) A person on the licensee's payroll for purposes of cleanup.
- B. No person shall remain on the licensed premises one hour after the closing hours except the owner of the license.

**§ 197-16. Inspection of establishment.**

- A. During the business hours of the massage establishment, inspection of each massage establishment may be made for the purpose of determining that the provisions of this article are met. This includes inspections by the Police Department, Fire Department, Building Inspector, and Rock Island County Public Health Officials. Such inspections shall be made at reasonable times and in a reasonable manner.
- B. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

**§ 197-17. Revocation; suspension of license.**

- A. Any permit issued for a massage establishment may be revoked or suspended by the Village Board, after a hearing for good cause, or temporarily suspended by the Chief of Police until a hearing by the Village Board, in any case where any of the provisions of this article are violated or any employee of the permittee, including a massage therapist is engaged in any conduct at permittee's place of business which violates any of the provisions of this article or any state law which provides for imprisonment, and permittee has actual or constructive knowledge of such violation or the permittee should have actual or constructive knowledge by due diligence, or where any applicant has made a false statement on an application for a permit under this article or in any case where the permittee or licensee refuses to permit any duly authorized police officer or inspector of the Village or the County to inspect the premises of operation therein. Such permit may also be revoked or suspended by the Village Board, after hearing, upon the recommendations of the a health officer of the Village or County that such business is being managed, conducted or maintained without regard for the public health or health of patrons or customers or without due regard for proper sanitation or hygiene.
- B. Any violation of this article by any employee of the permittee, including a massage therapist, shall be cause for suspension of the permit for not more than 30 days in the first instance. Any subsequent violation of this article by any employee of the permittee, including a massage therapist, shall be cause for suspension or revocation of the permit.
- C. No license shall be revoked until after due notice and a hearing shall have been held before the Village Board to determine just cause for such revocation. Notice of such hearing shall be given in writing and served at least 10 days prior to the date of the

hearing thereon. The notice shall state the grounds of the complaint against the holder of such license and shall designate the time and place where such hearing shall be held. Said notice shall be served upon the license holder by delivering the same personally or by leaving such notice at the place of business or residence of the license holder, or the licensed premises, in the custody of a person of suitable age and discretion. In the event the license holder cannot be found, and the service of such notice cannot be otherwise made in the manner herein provided, a copy of such notice shall be mailed, registered and postage fully paid, addressed to the license holder at the licensee's place of business or residence at least 10 days prior to the date of the hearing.

- D. When a license is temporarily suspended by the Chief of Police, a hearing shall be scheduled before the Village Board within 15 days. Notice of such hearing shall be served as required in Subsection C of this section.

**§ 197-18. Grounds for revocation and/or fines.**

The massage establishment may be subject to fine, license revocation, or both a fine and license revocation upon one or more of the following grounds, the massage therapist or other employee may be subject to fine:

- A. That the holder or employee is guilty of fraud in the practice of massage, or fraud or deceit in being qualified for the practice of massage.
- B. That the holder or massage therapist has been convicted in a court of competent jurisdiction of a felony. The conviction of a felony shall be the conviction of any offense which, if committed within this state, would constitute a felony under the laws thereof.
- C. That the holder or massage therapist is engaged in the practice of massage under a false or assumed name, or is impersonating another practitioner of a like or different name.
- D. That the holder or massage therapist is addicted to the habitual use of intoxicating liquors, narcotics or stimulants to such an extent as to incapacitate such person for the performance of the holder's professional duties.
- E. That the holder or massage therapist is guilty of fraudulent, false, misleading or deceptive advertising, or that said holder or massage therapist prescribes medicines or drugs, or practices any other licensed profession without legal authority therefore.
- F. That the holder has been guilty of employing, allowing or permitting any unqualified person to perform massage, or who in conjunction with the massage establishment gives or administers, or practices the giving or administering of baths as defined herein without first having been registered with the Village Clerk, in said holder's establishment.
- G. That liquor is being sold or consumed within the establishment.
- H. That the licensee or massage therapist has been convicted of prostitution, pandering, pimping, or other offenses opposed to decency and morality.
- I. That any person, whether acting as an individual, owner, employee of the owner, operator or employee of the operator, or whether acting as a mere helper for the owner,

employee, or operator, or acting as a participant or worker in any way, who touches another in the sexual or genital area, either physically, with any piece of equipment, or with any other item or in any other way.

- J. That the license or massage therapist is found to have violated any other section of this article.

**§ 197-19. Massagists practicing when provisions of chapter become effective.**

Any person who is actually engaged in the practice of massage, and who has therein practiced the profession three years or more or served as an apprentice three years at any place within the state, or who has a diploma from an approved school of massage, as herein defined at the time of final passage of, or who is eligible for membership in the American Massage and Therapy Association (also called "A.M.T.A."), shall be allowed to continue practice as a massage therapist, without first having met the other requirements of this article, except as to physical conditions and adequate facilities. Such person shall have one year from the effective date of the ordinance from which this article is derived to so qualify.

**§ 197-20. Maintaining nuisance.**

Any building used as a massage establishment in violation of this article with the intentional, knowing, reckless or negligent permission of the owner thereof, or the agent of the owner managing the building, together with all fixtures and other property used in violation of this article are hereby declared to be a public nuisance. The building, fixtures, and other property in violation will be dealt with in accordance with state law governing public nuisances.

**§ 197-21. Violations and penalties.**

Any person, except those persons who are specifically exempted by this article, whether acting as an individual, owner, employee of the owner, operator or employee of the operator, or whether acting as a mere helper of the operator, employee or operator, or acting as a participant or, worker in any way, who violates any provision of this article shall be subject to a fine in a sum not less than \$100 not more than \$500, and shall, upon conviction, be guilty of a misdemeanor, punishable by imprisonment for not more than six months, or by a fine not less than \$100 and not exceeding \$500, or both fine and imprisonment.