

CITY OF POTTERVILLE
EATON COUNTY, MICHIGAN
ORDINANCE NO. 13-239

AN ORDINANCE TO AMEND CHAPTER 8, ARTICLE II OF
THE CITY OF POTTERVILLE CODE OF ORDINANCE
ENTITLED MASSAGE ESTABLISHMENTS

Chapter 8

BUSINESS REGULATIONS

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Sec. 8-31. - Definitions.

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Apprentice or student means any person who, under the guidance of an instructor in a massage school or in a massage establishment, is being trained or instructed in the theory, method or practice of massage therapy.

Employee means any individual who is paid by the operator or customer for performing any service for the operator or customer at the licensed location.

Instructor means any person who gives lessons or teaches the theory, method or practice of massage therapy.

Massage establishment means any place or establishment where a massage is offered or performed, whether as the primary or secondary purpose of a business.

Massage school means any of the following accredited or licensed institutions of higher education that meet the minimum standards and curriculum, in compliance with section 16148 of Public Act No. 368 of 1978 (MCL 333.16148):

- (1) A public or private community college, college, or university.
- (2) A public or private trade, vocational or occupational school.

Massage therapist means any individual engaged in the practice of massage therapy.

Operator means any person who owns, manages, supervises or is any way in the charge of the operations of a massage establishment or massage school.

Practice of massage therapy means:

- (1) The term “practice of massage therapy” means the application of a system of structured touch, pressure, movement and the holding to the soft tissue of the human body in which the primary intent is to enhance or restore the health

and well-being of the client. The term “practice of massage therapy” includes complementary methods, including the external application of water, heat, cold, lubrication, salt scrubs, body wraps or other topical preparations; and electromechanical devices that mimic or enhance the actions possible by the hands.

- (2) The term “practice of message therapy” does not include medical diagnosis; practice of physical therapy; high-velocity, low-amplitude thrust to a joint; electrical stimulation; application of ultrasound; of prescription of medicines.

Sec. 8-32. – License required.

Any person who owns, conducts, manages or is in charge of an existing or proposed massage establishment or massage school as defined herein, shall be required to obtain a license from the City. It is hereby declared to be unlawful for any person to engage in the business of a massage establishment school as, defined herein, without first obtaining a license as provided in this chapter.

Sec. 8-33. – Contents of license application, age restrictions, changes.

Sec. 8-33.1 Contents of application. In addition to the information required when applying for a business license, the application for a massage establishment or massage school license shall contain the following information:

- a. Name and address of the applicant and the name and address of the owner of the massage establishment or massage school. If a partnership, the name and address of each partner thereof. If a corporation, the name and address of the local officials, managing employees and the resident agent of such corporation.
- b. Whether applicant has ever been convicted of a violation of this chapter or has ever been convicted of any felony.
- c. The place where the massage establishment or massage school is to be established.
- d. A list of the formal training in massage completed by each masseur/masseuse employed in the establishment with dates of completion or award of degree.
- e. A listing of the massage-related experience of each masseur or massuse.

Sec. 8-33.2. Age. No license shall be issued to any applicant unless applicant be over 18 years of age.

Sect. 8-33.3. Changes. In the event of any change in the information furnished pursuant to Sections 8-33.1 through 8-33.2, it shall be the duty of the licensee to inform

the City Clerk, City Fire Chief, City Zoning official, and the City Police Chief of such changes.

Sec. 8-34. Applications for license to be in duplicate; investigation and forwarding to the City Council.

The application for license shall be made in duplicate, both copies of which shall be filed with the City Clerk who shall investigate the named and cause: 1) the City Police Chief to ascertain if the applicant is without a felony, 2) the City Zoning official to ascertain from an investigation of the location where applicant proposes to operate a massage establishment or massage school whether such operation would violate any building ordinance, zoning ordinance or statute, and 3) The City Fire Chief to determine from an investigation of the location where applicant proposes to operate such massage establishment or massage school whether such operation would violate any fire safety ordinance or statute. Upon the City Clerk's determination that the applicant meets the requirements contained in this chapter, and upon receipt of approvals from the City Police Chief, City Zoning official and the City Fire Chief, the City Clerk shall submit one copy of the application to the City Council with a Clerk's recommendation of approval, shall approve such application.

Sec. 8-35. – License fee.

Every owner, instructor, or operator shall pay the following license fee to the City Clerk for the privilege of operating or maintaining a massage establishment or school as defined herein:

The annual license fee for each instructor shall be \$10.00. The annual license fee for an owner/operator and for each massage establishment and massage school shall be \$50.00. In the event that a massage establishment and massage school are being operated at the same address, only one fee of \$50.00 shall be charged.

Sec. 8-36. -- Display of license, transfer of location or ownership.

- (a) New Location. If a licensee shall move his place of business to another location within the City, the license may be transferred to the new location upon application to the City Clerk, giving street and number of new location, and the approval thereof being given by the City Police Chief, City Zoning official and the City Fire Chief and City Council. (should this new location require a new fee)
- (b) New Owner. When the business of a licensee is sold or transferred, the licensee or licenses of such licensee may be transferred to the new owner or transferee upon application to the City Clerk giving new owner or transferee name(s) with the consent of the City Police Chief, City Zoning official and the City Fire Chief and City Council as prescribed in Secs. 8-33 and 8-35.

- (c) Display of license. The license granted by the City of Pottersville shall be displayed in plain view of all patrons together with the license/proof of graduation from a school of massage licensed by the state.

Sec. 8-37. - Violations, penalties and forfeiture of license.

- (a) It shall be unlawful for any person to knowingly allow the use of any place, business, establishment or premises owned, operated, leased or managed by him/her to be used in the violation of any provisions of this section or any other ordinances of the city or any state law.
- (b) It shall be a misdemeanor for any person to violate any provisions of this section or to aid, assist or abet another to violate such provisions, rules or regulations.
- (c) In addition to any other penalty provided under this section, any licensee hereunder who shall be convicted a second time of a violation of any of the provisions in this chapter shall upon such second conviction forfeit any and all rights or privileges granted or conferred by any license issued by virtue of this chapter.

Sec. 8-38. - Enforcement provisions.

- (a) The city clerk shall have the authority to request the assistance of any department designated by the city manager in order to enforce these rules and regulations.
- (b) Every establishment being operated as a massage establishment or massage school shall be open for inspection by duly authorized representative of any city department concerned with the licensing and supervising of such establishment during operating hours for the purpose of enforcing any of the provisions of this chapter or other ordinances or regulation of the city relating to the public health, safety and welfare.
- (c) The hours of operation shall be set by the city council and be listed on the license granted to any applicant. The hours of operations may be modified by the council on its own motion, or subject to the council's discretion in response to a request by the applicant or licensee.
- (d) It shall be unlawful for any person to refuse entry to premises in which a massage establishment or massage school is being operated, by duly authorized city, county and state representative for the purpose of making lawful inspections.

Sec. 8-39. - Exceptions

This section shall not apply to licensed individuals engaged in the personal performance of the duties of their respective profession including physicians, surgeons, chiropractor, osteopaths, physical therapists, registered nurses, athletic trainers of any organized athletic team or an individual operating under the direct personal supervision of such licensed person, or a massage therapist, who meets one or more of the following criteria:

- (1) Proof of graduation from a school of massage licensed by the state.
- (2) Official certified transcripts verifying completion of at least 300 hours of message training from an American college or university, plus three references from massage therapists who are professional members of a recognized message association.
- (3) Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation or any other recognized message therapy association with equivalent professional membership standards.

Sec. 8-40. - Maintenance of premises.

- (a) Every establishment shall be kept clean and in a sanitary condition at all times. All tables and surfaces on which the practice of massage therapy is performed shall be covered by a permanent, washable material.
- (b) The premises used for a massage establishment shall be well-lighted and ventilated. They shall be kept clean and the furniture and equipment shall be maintained in a safe and sanitary condition. There shall be adequate supply of running hot and cold water during business hours. Bathing devices shall be thoroughly cleaned before the use of each patron.

Sec. 8-41. - Advertising restricted.

It shall be unlawful for any person to advertise the offering of the practice of massage therapy unless the advertised establishment is duly licensed.

Sec. 8-42. - Scope of service.

- (a) No apprentice or student shall perform the practice of massage therapy unless in the presence and under the supervision of an instructor.
- (b) Service in massage establishments licensed under this section shall be limited to exercise, baths and the practice of massage therapy. Medical treatment of any kind shall not be given to any patron without a prescription from a licensed physician. The use of any medical or electrical devices other than heat lamps and sunray lamps is prohibited.

- (c) The private parts of patrons must be covered when in the presence of an employee, massage therapist. Any contact with a patron's genital areas are prohibited.

Sec. 8-43. - Disease control.

- (a) No person who has any visible symptoms of a communicable disease, such as a rash, discharge, or fever may be attended by a licensee under this section or any person engaged in the practice of massage therapy.
- (b) Each applicant for an apprentice or student certificate of registration, employee or applicant for an instructor's or operator's license under this section or a renewal thereof, shall present to the city clerk a certificate from a register physician, certifying that he/she is free from communicable disease. A current certificate shall also be provided prior to the renewal of any license. If the city council receives information that any individual defined in section 34-1 may no longer be free of a communicable disease then the council may in its discretion direct that such individual terminate the presence at the licensed establishment shall be a basis for the immediate suspension of the license and closure of the business until compliance is obtained.
- (c) The skin of the hands of those attending patrons shall be clean and in healthful condition, and the nails shall be kept short. The hands shall be washed thoroughly before providing the patron any service. A minimum of one separate wash basin shall be provided in each massage establishment for the use of employees of any such establishment. There shall be provided, at each wash basin, sanitary towels placed in permanently installed dispensers.

Sec. 8-44. – Minors.

- (a) The practice of massage therapy shall not be performed on any individual under the age of 18 years, and it shall be the obligation of the operator and its employees to ascertain the age of any individual requesting massage therapy, and if such individual is unable to provide proof of age of 18 or older, it shall be a violation of this section to provide the practice of massage therapy for or on behalf of this individual. Unless the person under the age of 18 is accompanied by a parent or guardian during the massage/treatment and signs a waiver, this provision shall not apply.
- (b) No person under the age of 18 years old shall enter or remain, nor shall the owner or operator allow any such person to enter or remain, on the premises of a massage establishment at any time.
- (c) No person operating a massage school or massage establishment, nor any instructor, shall permit training of an apprentice or student who has not attained the age of 18 years.

- (d) It shall be unlawful for any person to falsify his/her age in order to obtain training as an apprentice of student in a massage school or massage establishment.

Sec. 8-45. – Linens, wearing apparel, etc.

- (a) All robes, towels, blankets and linens furnished for the use of one patron shall be thoroughly laundered before being offered to another.
- (b) Nontransparent uniforms or garments covering the torso shall be worn by the instructor, operator, massage therapist, employee or apprentice while attending patrons, which shall be of washable material, and shall be kept in clean condition. The sleeves shall not reach below the elbow.

Sec. 8-46. – Areas for the practice of massage therapy restricted.

- (a) The practice of massage therapy shall not be performed in a massage establishment or massage therapy school in a private room which is closed to other persons by means of a door containing any latch or locking device. However, reasonable measures may be used to offer privacy to patrons such as partitions, stalls, curtains and the like.
- (b) No massage establishment shall be conducted indirect connection with living quarters.

Sec. 8-47. – Students prohibited from the practice of massage therapy upon each other.

Students at a massage school shall be prohibited from performing the practice of massage therapy on each other

Sec. 8-48. – Protection of patron.

Any person providing any service to a patron shall exercise every precaution for the safety of such patron. They shall watch for early signs of fatigue or weakness and immediately discontinue whatever form of service is being given upon the appearance of such signs.

Secs. 8-49 – 8-100. – Reserved.

This Ordinance shall take effect 45 days after publication in a newspaper of general circulation within the City of Potterville.

The foregoing ordinance was introduced on May 16, 2013, at a Regular meeting of the Potterville City Council by M. Storie and seconded by L. Amey and a public hearing was scheduled for June 20, 2013.

At a regular meeting of the City Council on July 18, 2013, R. Norman made a motion to adopt Ordinance No. 13-239 Massage Establishments. K. Antcliff seconded.

YEAS: J. French, K. Antcliff, R. Norman, D. Hartson, L. Amey, J. Bussard

NAYS: none

Attest:

Brandi Brace – Potterville City Clerk