

CHAPTER 53**MASSAGE TECHNICIANS AND ESTABLISHMENTS**

53.01 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this Chapter, have the meanings in this section:

1. "Accredited School": means any school wherein the method, profession, and work of massage is taught, which furnishes a statement of courses offered, including anatomy and physiology, is accredited by a state unit of educational accreditation, or by the American Massage and Therapy Association, provides for not less than 1,000 hours of instruction, and furnishes a certificate or diploma of successful completion of such course of study or learning.
2. "Applicant": means any person applying for a license to operate or conduct a massage business, or to operate as a massage technician, and in addition thereto shall include and mean all partners in a partnership and all stockholders of a corporation where the controlling interest of the corporation is held by five (5) or less persons or legal entities.
3. "Massage Establishment": means any place of business wherein any of the treatments, techniques, or methods of treatment referred to in the definition of "massage or massage service" are administered, practiced, used, given or applied.
4. "Massage or Massage Service": means any method of treating the external parts of the body, consisting of rubbing, stroking, kneading, tapping, or vibrating; such treatments being performed by the hand or any other body parts, or by any mechanical or electrical instrument.
5. "Massage Patron": means any person who receives, or pays to receive, message or massage services from a massage technician for value.
6. "Massage Technician": means any person who engages in the business of performing a massage or massage services on or for other persons by use of any or all of the treatments, techniques or methods of treatment referred to in the definition of "massage or massage services."
7. "Person of Good Moral Character": means any person who meets all of the following requirements:
 - A. Compliance with Law. He has such financial standing and good reputation as will satisfy the issuing authority that he or she

will comply with this Chapter and all laws, ordinances, and regulations applicable to operations under this Chapter.

B. Previous Permit. He has not held a license under this Chapter which has been revoked during the year last preceding the date of application; the fact that any such license or a similar license has been heretofore revoked may be considered by the City Council.

C. Non-felon. He has not been convicted of a felony involving moral turpitude or adjudged in violation of this Chapter. However, if conviction of such a felony occurred more than five (5) years before the date of the application for a license, and if applicant's rights of citizenship have been restored by the governor, the issuing authority may determine that the applicant is a person of good moral character notwithstanding such conviction.

53.02 COMPLIANCE WITH CHAPTER REQUIRED. No person, firm or corporation shall operate, own, conduct, carry on or permit to be operated, owned, conducted or carried on any massage establishment of any type or kind including, but not limited to 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 other business, without compliance with the provisions of this Chapter. No person shall perform the services, duties or work of a massage technician except in compliance with the provisions of this Chapter.

53.03 EXEMPTIONS. The following persons and institutions are excluded from the operation of this Chapter:

1. Persons Licensed by State. Persons licensed by the State of Iowa under provisions of Chapters 136D, 148, 148A, 148B, 148C, 150, 150A, 151, 152, 152C, 152D, 153, 157 or 158 of the Iowa Code, when performing massage therapy or massage services as a part of the profession or trade for which licensed.
2. Under Supervision of Licensed Persons. Persons performing massage therapy or massage services under the direct supervision of a person licensed as described in paragraph 1 hereinabove.
3. Massage as Prescribed by a Physician. Persons performing massage therapy or massage services upon a person pursuant to the written instruction or order of a licensed physician.
4. Institutional Care. 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 1 hereinabove.

5. Athletic Coach or Trainer. An athletic coach or trainer:
 - A. Educational Institution. In any accredited public or private secondary school, junior college, college or university, or
 - B. Professional Athletics. Employed by a professional or semi-professional athletic team or organization.

53.04 LICENSES FOR MASSAGE BUSINESS.

1. Premises Standards. No person, firm or corporation shall operate, own, conduct or carry on or permit to be operated, owned, conducted or carried on any massage business in the City unless the premises at which such business is located meet the minimum standards set forth in Section 53.12 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. Application Procedures. Any person, firm or corporation seeking a license to operate a massage establishment shall make application to the City Clerk. The Clerk shall cause an investigation of such application to be made by the Police Department to determine if applicant is of good moral character. The Clerk shall also cause an investigation to be made by the Fire Department and Building Department 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, zoning, fire and health.
3. Contents of Application. The application shall contain the following:
 - A. The full name, residence address, business address, date of birth and social security number of the applicant and, where the applicant is a corporation or partnership, of the officers or partners.
 - B. The two previous addresses immediately prior to the present address of the applicant.
 - C. Written proof that the applicant is at least eighteen (18) year of age.
 - D. Applicant's height, weight, color of eyes and hair.

E. Two current portrait photographs at least two inches by two inches.

F. Business, occupation, or employment of the applicant, including location thereof, for the three years immediately preceding the date of application.

G. The massage or similar business license history of the applicant; whether such person, is previously operating in this or another city or state under license, has had such license revoked or suspended, or has been adjudged in violation of this Chapter, the reason therefor, and the business activity or occupation subsequent to any such action of suspension or revocation or judgment.

H. The arrest record and the criminal record of the applicant, if any.

I. A statement that the applicant is of good moral character.

J. The applicant must furnish a diploma, certificate of graduation or other proof of graduation from an accredited school, provided, however, that if the applicant will have no physical contact with customers or clients then the applicant need not possess such diploma or certificate of graduation.

K. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in the articles of incorporation together with the names and residence addresses of each of the officers, directors, and each stockholder holding more than ten (10) percent of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and the residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant apply.

L. All information required herein of any applicant shall also be provided for 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.

M. The name and address of the owner of the building where such massage business will be located.

N. Certified copies of any lease or rental agreement governing the applicant's rights in said building.

O. Such other identification and information necessary to discover the truth of the matters herein required to be set forth in the application.

P. Nothing contained herein shall be construed to deny to the Clerk the right to request that the Chief of Police take fingerprints and additional photographs of the applicant, nor shall anything contained herein be construed to deny the right of the Clerk to confirm the height and weight of the applicant.

Q. The signature of the applicant or applicants or, if the application is in the name of a corporation, the signature of each officer or the corporation.

4. License Fees. A license fee shall be payable at the time of filing the application with the Clerk. Such license fees shall be based upon the number of treatment rooms or massage enclosures. All license fees under this Chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fee, may from time-to-time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective license fee shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours. For the purpose of fixing such fees, the Council may subdivide and categorize licenses under a specific license requirement, provided that any such subdivision or categorization shall be included in the resolution authorized by this Section.

5. Issuance of License. The Building, Fire, and Police Departments shall make written reports of their investigations and shall submit such reports to the Clerk within forty-five (45) days of the date of the application. If the Clerk finds that the applicant has fully complied with all requirements of this Chapter and all applicable ordinances and codes regulating fire, buildings, health and zoning, and that the applicant is of good moral character, then the Clerk shall approve the application and shall authorize the issuance of a license to conduct a massage business at the location designated in the application. Said license shall expire one year from the date of issuance, and renewals thereof, if approved, shall expire on the anniversary date of such date of issuance. In the event that the Clerk determines that the applicant has

not fully complied with all of the requirements of this Chapter for a new or a renewal license, or any other applicable ordinances or codes regulating fire, buildings, health or zoning, or may not be of good moral character, or may have falsified his or her application, then the Clerk shall, after consultation with the legal department, advise the Council of the basis for questioning the applicant's qualifications, and the procedures for notice and hearing as set forth in Section 53.05 of this Chapter shall apply before the license shall issue.

6. Separate License for Each Place of Business. Each massage business shall have a separate license for each place of business, which shall be valid only for the business conducted at that location.

7. License to be Displayed. Each massage business 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. Sale or Transfer. No massage establishment license shall be sold or transferred. The purchaser or purchasers of any massage business or of the majority of the stock of any corporation operating a massage business shall make application for and obtain a new license before operating such business at the location for which the license has been issued.

9. Compliance. Any licensee holding a valid license issued pursuant to this Chapter prior to April 25, 1981 must comply with the application and licensing provisions of this Chapter within thirty (30) days of such date, provided any such licensees who fail to so comply will be deemed to be operating without a valid license after such thirty (30) day period. The fee paid for such valid license shall be apportioned, based on the period of time remaining before its expiration, and the amount of such apportioned fee shall be credited to the fee for a new license pursuant to this Chapter, as amended, or, if no such license is applied for, then such apportioned amount shall be returned to the current licensee.

53.05 DENIAL, SUSPENSION OR REVOCATION OF LICENSE.

1. Grounds. The massage establishment license of any such applicant or licensee may be denied, suspended or revoked for violation of the provisions of this Chapter, or for failure to comply with applicable fire regulations, building regulations, or health ordinances, or for permitting massage technicians, who are either employed by the licensee or who are allowed by the licensee to perform the services or work of a massage technician upon the premises of the licensee, to violate the provisions of this Chapter, or if it is found that the applicant lacks good moral character, or has falsified an application, or has refused to permit any duly authorized peace officer or building or fire inspector to inspect the premises.

2. In the event the City Clerk is apprised of information indicating that grounds for denial, suspension or revocation of a massage establishment license may exist, he or she shall cause an investigation of such grounds to be made by the appropriate city department or departments and, after consultation with the legal department, 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 denied, 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,

A. If the determination is the first such for that licensee, it may withhold action on an application for one (1) month from date of hearing or suspend an existing license for up to one (1) month, and thereupon such licensee shall cease massage business at that location or at any other location for the period of suspension;

B. If the determination is the second such for that licensee or if the City Council finds against the applicant or licensee on two or more grounds at such hearing, it may deny an application or revoke an existing license at that location, and in either event no massage establishment license shall issue nor shall such business be conducted at that location for a period of one (1) year, nor shall the licensee be permitted to conduct such business in the City for that period.

53.06 REGISTER OF EMPLOYEES. A massage establishment shall maintain a register of all persons employed as massage technicians and their current massage technician license numbers.

53.07 MASSAGE TECHNICIAN LICENSE.

1. License Required. No person shall perform the services, duties or work of a massage technician without first receiving a massage technician license from the 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 technician in his or her own establishment provided such person provides the information required in 53.07(3)(f) and 53.07(3)(g) of this Chapter on the application for massage establishment license, and states that such owner will be a massage technician at such establishment.

2. Application Procedures. Any person seeking a massage technician license shall apply to the Clerk. The Clerk shall cause an investigation of such applicant by the Police Department to determine if such person is of good moral character.
3. Application Contents. The application shall contain the following information:
 - A. The full name, residence address, business address, date of birth and social security number and driver's license number, if any, of the applicant.
 - B. Applicant's weight, height, color of hair and eyes.
 - C. Two current portrait photographs at least two inches by two inches.
 - D. Written evidence that the applicant is at least eighteen (18) years of age.
 - E. Business, occupation or employment of the applicant, including location thereof, for the three years immediately preceding the date of application.
 - F. The arrest record of the applicant and whether the applicant has ever been convicted of any crime, except misdemeanor traffic violations. If any person mentioned in this Chapter has been so convicted, a statement must be made giving the place and court in which such conviction was had, the specific charge under which the conviction was obtained, and the sentence imposed as a result of such conviction.
 - G. The name and address of the accredited school attended, the date attended and a copy of the diploma, certificate of graduation, or other proof of graduation stating that the applicant has completed not less than 1,000 hours of instruction.
 - H. A certificate issued by a licensed physician stating that the applicant is free from communicable diseases and venereal diseases such as syphilis and gonorrhea, executed within one week preceding the date of the application.
 - I. The name of the licensed massage establishment where the applicant will be employed.
 - J. A statement that the applicant is of good moral character.
 - K. The Clerk shall have the right to direct the chief of police to take fingerprints and a photograph of the applicant and the right to confirm the information submitted.
4. Issuance of the License. The Police Department shall make a written report

of its investigation to the Clerk within thirty (30) days of the date of the application. The Clerk may, upon presentation of the certificate described in subsection 3 hereinabove, issue a temporary massage technician permit to the applicant if the application is otherwise proper and pending receipt of the written police report. Upon receipt of the police report and such certificate, the Clerk shall approve the application if the applicant has fully complied with all the requirements of this Chapter, and the Clerk shall thereupon issue a permanent massage technician license to the applicant. The permit shall expire one year from the date of issuance, and renewals thereof, if approved, shall expire on the anniversary date of issuance. In the event that the Clerk determines that the applicant for a new or renewal license has not fully complied with all of the requirements of this Chapter, or that the applicant is not of good moral character, or that the applicant has falsified his or her application, the Clerk shall, after consultation with the legal department, advise the City Council of the basis for questioning the applicant's qualifications, and the procedures for notice and hearing as set forth in Section 53.08 of this Chapter shall apply before the permanent license shall issue.

5. License Valid Only For Establishment Listed on the Application. The massage technician license, when issued, shall be valid only for the massage establishment listed on the application. A massage technician changing place of employment shall have his or her license amended by the Clerk to show that the establishment proposing such employment holds a valid massage establishment license before commencing work for the new employer as a massage technician.

6. License to be Kept at Place of Employment. A massage technician having a current license issued pursuant to this Chapter shall keep said license at his or her place of employment as a massage technician and shall display such license at the request of any peace officer.

7. License Fees. The license fee for a massage technician shall be shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fee, may from time-to-time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective license fee shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours.

8. Identification Name Plate. The Clerk shall provide each massage technician granted a license with an identification name plate which shall contain a photograph of the massage technician and the name and license number assigned to said massage technician, which must be worn on the front of the outermost garment at all times during hours of employment at any establishment granted a license pursuant to this Chapter.

9. Every application for a license under this section shall be verified under oath by the

applicant.

10. Any licensee holding a valid license issued pursuant to this Chapter prior to April 25, 1981 must comply with the application and licensing provisions of this Chapter within thirty (30) days of such date, provided any such licensees who fail to so comply will be deemed to be operating without a valid license after such thirty (30) day period. The fee paid for such valid license shall be apportioned based on the period remaining before its expiration and the amount of such apportioned fee shall be credited to the fee for a new license pursuant to this Chapter as amended, or, if no such license is applied for, then such apportioned amount shall be returned to the current licensee.

53.08 SUSPENSION OR REVOCATION OF MASSAGE TECHNICIAN LICENSE.

1. Grounds for Denial, Suspension or Revocation. The massage technician license may be denied, suspended, or revoked for any violation of this Chapter, including but not limited to the failure to comply with new or renewal application procedures, a finding of the lack of requisite good moral character, or falsification of new or renewal applications.

2. Denial, Suspension or Revocation Proceedings. The Clerk may, upon receipt of information alleging that grounds exist to deny, suspend or revoke the massage technician license of any applicant or licensee under this Chapter, and after consultation with the City Attorney, report the circumstances to the City Council, which in such case shall cause a notice to be sent by ordinary mail to the applicant or licensee which notice shall state that a denial, suspension, or revocation hearing has been set before the City Council, the grounds for the proposed denial, 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 one or more of such grounds do exist, it may deny an application or suspend or revoke an existing license. In the event such license is revoked, no massage technician license shall be issued to that licensee for a period of one (1) year.

53.09 RENEWALS. Each massage establishment or massage technician shall apply for a license annually by application as if for an original license. There shall be no automatic renewal. Such application shall be filed and the fee paid no less than thirty (30) days prior to the anniversary date of the issuance of the current license.

53.10 EMPLOYMENT OF MASSAGE TECHNICIANS. It shall be the responsibility of the licensee for the massage establishment or the employer of any persons purporting to act as massage technicians, to insure that each person employed as a massage technician shall first have obtained a valid license pursuant to this Chapter.

53.11 HOME MASSAGE TREATMENTS. Massages may be administered in the patron's home by any massage technician having a license issued in accordance with this Chapter provided massages are prescribed in writing by a physician duly licensed to practice medicine in the State of Iowa and such physician certifies that the patron is unable for medical reasons to obtain such in a massage establishment. No massage technician shall administer any massage services at a location that does

not conform to or comply with the standards set forth in Section 53.12 of this Chapter, except as set forth in this section.

53.12 HEALTH STANDARDS.

1. No massage establishment shall be established, maintained or operated in the City that does not conform to or comply with the following standards:
 - A. Lighting. Each room or enclosure where massage services are performed on patrons shall be provided with a minimum of four (4) foot candles as measured four (4) feet above the floor.
 - B. Sterilizing Equipment. The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massage services. Such materials and instruments shall be disinfected after each use.
 - C. Water. Hot and cold running water shall be provided at all times.
 - D. Cabinets and Storage Facilities. 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.

E. Clean Linen. Clean linen and towels shall be provided for each massage patron. No common use of towels or linens shall be permitted.

F. Surfaces. All massage tables, bathtubs, shower stalls, sauna baths, steam or bath areas and all floors shall have surfaces which may be readily cleaned.

G. Containers for Oils and Preparations. Oils, creams, lotions or other preparations used in administering massages shall be kept in clean containers or cabinets.

H. Locker Facilities. Adequate bathing, dressing, locker and toilet facilities shall be provided for all patrons served at any given time. All patron lockers shall be lockable. In the event male or female patrons are to be served simultaneously, separate bathing, dressing, locker, toilet and massage room facilities shall be provided.

I. Maintenance of Facilities. 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.

J. Technician Cleanliness. Each massage technician shall wash his or her hands in hot running water using soap or disinfectant before and after administering a massage to each patron.

K. Service Sink and Janitorial Facilities. 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.

L. Food Consumption. No person shall consume food or beverages in massage work areas.

M. Animals. Animals, except for seeing-eye dogs, shall not be

permitted in massage establishments.

N. Building Regulations. All massage establishments shall continuously comply with all applicable building, fire or health ordinances and regulations.

2. No massage technician shall administer a massage:

A. Health of Technician. If said massage technician believes, knows, or should know that he or she is not free of any contagious or communicable disease or infection.

B. Skin Diseases. 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 person may be safely massaged prescribing the condition therefor.

C. Health of Customer. To any person who is not free of communicable disease or infection or whom the massage technician believes or has reason to believe is not free of communicable disease or infection.

53.13 UNLAWFUL ACTS.

1. Patron's Sexual Actions. No massage patron receiving a massage shall caress or fondle the massage technician administering the massage.

2. Technician's Sexual Actions. No massage technician shall masturbate or fondle the genital area of a massage patron.

3. Clothing Requirement. No massage technician shall administer a massage to a massage patron unless such technician's sexual and genital body parts are completely covered by opaque clothing.

4. Administering to Different Sexes. No massages shall be administered to persons of different sexes in the same room or enclosure at the same time.

5. Massages in Permitted Establishments Only. No massage technician shall administer any massage services, and no massage patron shall receive a massage from a massage technician, at any place other than a massage establishment covered by a license issued in accordance with this Chapter, except in accordance with Section 53.11 of this Chapter.
6. No massage establishment licensee shall allow or knowingly permit massage technicians in his 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 Subchapter, except in accordance with Section 53.11 of this Chapter.
7. No massage establishment granted a license under the provisions of this Chapter 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 this Chapter.
8. No service enumerated in Section 53.01 of this Chapter shall 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.
9. No massage establishment shall operate between the hours of ten (10) o'clock p.m. and seven (7) o'clock a.m.