

## **Chapter 22 BUSINESSES** [11](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - MASSAGE ESTABLISHMENTS

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FOOTNOTE(S):

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**Cross reference**— Alcoholic beverages, ch. 6; amusements and entertainments, ch. 10; peddlers and solicitors, ch. 42; taxation, ch. 58; utilities, ch. 66; home occupations, § 70-463.[\(Back\)](#)

### **ARTICLE I. IN GENERAL**

[Secs. 22-1—22-30. Reserved.](#)

**Secs. 22-1—22-30. Reserved.**

### **ARTICLE II. MASSAGE ESTABLISHMENTS**

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#### ***DIVISION 1. GENERALLY***

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**Sec. 22-31. Definitions.**

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

*Accredited school* means any institution of learning wherein the minimum qualifications for graduation include instruction in method, profession or work of massage, which school requires a minimum of 48 hours of instruction for graduation; and which school has been accredited by the state board of education.

*Employee* means 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* means the health officer of the village or authorized representative. Until otherwise appointed or designated by the village board, the health officer shall be the county health officer. Any cost for the services of such health officer shall be paid by the applicant, and shall be in addition to the other fees and costs specified in this article.

*Massage* means any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice.

*Massage establishment* means any establishment having a fixed place of business where any person, firm, association or corporation engages in, or carries on, or permits to be engaged or carried on, any of the activities mentioned in this section.

*Masseur and masseuse* mean any person who, for any consideration whatsoever, engages in the practice of massage.

*Outcall massage service* means any business, the function of which is to engage in or carry on massages at a location designated by the customer or client rather than at a massage establishment.

*Permittee* means the operator of a massage establishment.

*Sexual or genital area* means the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

(Ord. No. 86-2, § 1.01, 3-19-1986)

**Cross reference**— Definitions generally, § 1-2.

**Sec. 22-32. Facilities necessary.**

- (a) No massage establishment shall be issued a permit, nor be operated, established, or maintained in the city, unless an inspection by the health officer reveals that the establishment complies with each of the following minimum requirements:
  - (1) Construction of a room used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproof materials and shall be installed in accordance with the building code of the city.

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- (2) All massage tables, bathtubs, shower stalls, steam or bath area and floors shall have surfaces which may be readily disinfected.
  - (3) Adequate bathing, dressing, and locker facilities shall be provided for the patrons to be served at any given time. If male and female patrons are to be served simultaneously, separate bathing, dressing, locker, toilet and massage room facilities shall be provided.
  - (4) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.
  - (5) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels, and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.
  - (6) Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each sex. 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. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated there.
  - (7) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap and a dispenser and the sanitary towels.
  - (8) The premises shall be equipped with a service sink for custodial services.
- (b) The health officer shall certify that the proposed massage establishment complies with all the requirements of this section and shall send such certification to the mayor.

(Ord. No. 86-2, § 1.11, 3-19-1986)

**Sec. 22-33. Operation requirements.**

- (a) Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
- (b) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.
- (c) All employees, including masseurs or masseuses, shall be clean and wear clean, nontransparent outer garments, covering the sexual and genital area, whose use is restricted to the massage establishment. A separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.
- (d) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.
- (e) The sexual or genital area of patrons must be covered by towels, cloths, or undergarments when in the presence of an employee, masseur, or masseuse.
- (f) It shall be unlawful for any person, in a massage establishment, knowingly, to place his hand on, to touch with any part of his body, to fondle in any matter, or to massage, a sexual or genital area of any other person.
- (g) No masseur or masseuse, employee or operator shall perform, offer, or agree to perform an act which would require the touching of the patron's genital area.

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- (h) 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. When carpeting is used on the floors, it shall be kept dry.
- (i) Oils, creams, lotions, or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.
- (j) Eating in the massage work areas shall not be permitted. Animals, except for guide, hearing or support dogs accompanying a blind, hearing impaired or physically handicapped person, shall not be permitted in the massage work areas.
- (k) No masseur or masseuse shall administer a massage to a patron exhibiting any skin fungus, skin infection, skin inflammation or skin eruption, unless a physician duly licensed by the state certifies in writing that such persons may be safely massaged prescribing the conditions thereof.
- (l) Each masseur or masseuse shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage to each person.
- (m) No massage establishment shall be kept open for any purpose between the hours of 11:00 p.m. and 8:00 a.m.

(Ord. No. 86-2, § 1.12, 3-19-1986)

**Sec. 22-34. Advertising.**

No massage establishment granted a permit under 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 unreasonably suggest to prospective patrons that with respect to massage any services are available, other than those services described in section 22-31, or that employees, masseurs, or masseuses are dressed in any manner other than prescribed in section 22-33(c), nor shall any massage establishment indicate in the text of such advertising that with respect to massage any services are available other than those services described in section 22-31.

(Ord. No. 86-2, § 1.13, 3-19-1986)

**Sec. 22-35. Outcall registration.**

Any masseur or masseuse who provides any of the services listed in section 22-31 at any hotel or motel must first register his or her name and permit number with the owner, manager, or person in charge of the hotel or motel.

(Ord. No. 86-2, § 1.14, 3-19-1986)

**Sec. 22-36. Outcall service.**

No outcall massage service may be operated other than by a licensed massage establishment. All massages performed by an outcall massage service must be performed in the manner prescribed in section 22-33 and 22-34.

(Ord. No. 86-2, § 1.15, 3-19-1986)

**Sec. 22-37. Inspections.**

The police department and the health officer shall, from time to time and at least twice a year, make an inspection of each massage establishment granted a permit under the provisions of this article for the purposes of determining that the provisions of this article are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be a violation of this article for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

(Ord. No. 86-2, § 1.16, 3-19-1986)

**Sec. 22-38. Employment of person under the age of 18 years.**

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.

(Ord. No. 86-2, § 1.17, 3-19-1986)

**Sec. 22-39. Identification card.**

The mayor or designee shall provide each masseur or masseuse granted a permit with an identification card which shall contain a photograph of the masseur or masseuse and the full name and permit number assigned to the masseur or masseuse, which must be worn on the front of the outermost garment at all times during the hours of operation of any establishment granted a permit pursuant to the article.

(Ord. No. 86-2, § 1.18, 3-19-1986)

**Secs. 22-40—22-60. Reserved.**

***DIVISION 2. ESTABLISHMENT PERMIT***

[Sec. 22-61. Required.](#)

[Sec. 22-62. Application.](#)

[Sec. 22-63. Application information.](#)

[Sec. 22-64. Issuance.](#)

[Sec. 22-65. Revocation or suspension.](#)

[Sec. 22-66. Transfer.](#)

[Secs. 22-67—22-90. Reserved.](#)

**Sec. 22-61. Required.**

It shall be unlawful for any person to engage in, conduct, or carry on, or to permit to be engaged in, conducted or carried on, in or on any premises in the village the operation of massage establishment without first having obtained a permit from the mayor after approval of the health officer.

(Ord. No. 86-2, § 1.02, 3-19-1986)

**Sec. 22-62. Application.**

- (a) Every applicant for a permit to maintain, operate, or conduct a massage establishment shall file an application in duplicate under oath with the mayor on a form provided by the mayor and shall pay a nonrefundable, renewable yearly filing fee of \$1,000.00 to the village clerk who shall issue a receipt which shall be attached to the application filed with the mayor.
- (b) The mayor shall, within five days, refer copies of such application to the Malta Fire District, the health officer, the zoning administrator and building inspector. These departments and officers shall, within 30 days, inspect the premises proposed to be operated as a massage establishment, and make written recommendations to the mayor concerning compliance with the codes that they administer. The police department shall conduct a background investigation concerning the applicant and all persons referred to and shall report to the mayor within 30 days.
- (c) Within ten days of receipt of the recommendations and investigations of the departments enumerated in subsection (b) of this section, the mayor shall notify the applicant that his 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 or unless the delay is caused by the applicant. At the conclusion of such additional investigation, the mayor shall advise the applicant in writing whether the application is granted or denied.
- (d) Whenever an application is denied or held for further investigation, the mayor shall advise the applicant in writing of the reasons for such action.
- (e) The failure or refusal of the applicant to promptly give any information relevant to the investigation of the application or his refusal or failure to appear at any reasonable time and place for examination under oath regarding the application or his refusal to submit to or cooperate with any inspection required by this article shall constitute an admission by the applicant that he is ineligible for such permit and shall be grounds for denial thereof by the mayor.
- (f) The filing of a permit application under this article shall constitute authorization for the mayor and police department to investigate the criminal records, traffic records, and massage establishment operating history of the applicant and any partner or limited partner of a partnership applicant and any officer, or director of a corporate applicant, and any stockholder holding more than ten percent of the stock of a corporate applicant. Consent to such an investigation may be withdrawn by an individual by withdrawing their involvement with the massage establishment or by withdrawal of the application itself. No such withdrawal of authorization shall be effective until written notice thereof is received by the mayor.

(Ord. No. 86-2, § 1.03, 3-19-1986)

**Sec. 22-63. Application information.**

- (a) The application for a permit to operate a massage establishment shall set forth the exact nature of the massages to be administered, and the proposed place of business and facilities thereof.
- (b) In addition, any applicant for a permit, including any partner or limited partner of a partnership applicant, and any officer or director of a corporation applicant and any stockholder holding more than ten percent of the stock of a corporate applicant, shall furnish the following information:
  - (1) The name and address of each such individual.
  - (2) Written proof that the individual is at least 18 years of age.

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- (3) All residential addresses of each such individual for the past three years and any other names by which any such persons have been known.
- (4) The height, weight, color of eyes, and color of hair of each such person.
- (5) The business, occupation, or employment of each such person for the three years immediately preceding the date of the application.
- (6) The massage or similar business license history of the applicant and of any person required to be named above, a statement as to whether such person, in previously being involved with the operation of a massage establishment in this or another municipality or state under a license or permit, has had such license or permit revoked or suspended, the reasons therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
- (7) The nature of, case numbers of and the jurisdiction of any court proceedings, regardless of outcome or status, instituted by an entity or person against any person required to be disclosed in this section arising out of operation of or involvement with a massage business or establishment including, without limitation, suits in equity to abate a nuisance.
- (8) All criminal or city ordinance violation convictions, forfeitures of bond, and pleadings of nolo contendere on all charges, except minor traffic violations involving any of the persons specified in this section.
- (9) 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 the mayor shall be provided with the date and state of incorporation; and, if incorporated in a state other than Illinois, the date on which such foreign corporation became authorized to do business in the state.

(Ord. No. 86-2, § 1.04, 3-19-1986)

**Sec. 22-64. Issuance.**

- (a) On receipt of the recommendations of the departments referred to and the certification of the health officer that the establishment is in compliance with all of the requirements of section 22-32, the mayor shall issue a permit to maintain, operate, or conduct a massage establishment, unless he finds that:
  - (1) 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 and state.
  - (2) The applicant or any other person who will be directly or indirectly engaged in the management and operation of the massage establishment has been convicted of:
    - a. A felony;
    - b. An offense involving sexual misconduct with children; or
    - c. Prostitution, soliciting for a prostitute, pandering, keeping a place of prostitution, pimping, or other offense opposed to decency and morality.
  - (3) The applicant or any other person who will be directly or indirectly engaged in the management and operation of the massage establishment has had a massage establishment license or permit or masseur or masseuse license or permit revoked by any jurisdiction.
  - (4) The application contains a false statement or fails to supply required information.
  - (5) The required filing fee has not been paid.
- (b) The mayor, in his discretion, may issue a permit to any person convicted of any of the crimes in subsections (a)(2)a, b, and c of this section, if he finds that such conviction occurred at least four years

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prior to the date of application, the applicant has had no subsequent convictions and the applicant has shown evidence of rehabilitation sufficient to warrant the public trust. The mayor, in his discretion, may issue a permit to any person otherwise disqualified by virtue of subsection (a)(3) of this section if he finds that such revocation occurred at least four years prior to the date of the application, the individual involved has had no subsequent revocations, and has shown evidence of rehabilitation sufficient to warrant the public trust. The mayor, in his discretion, may issue a permit to any person disqualified by subsection (a)(4) of this section if he finds that the false statements or omitted information occurred unintentionally, that the applicant has since corrected the error, and that the applicant is not otherwise disqualified.

- (c) Every massage establishment permit issued pursuant to this article shall terminate on May 1 of each calendar year, unless sooner suspended or revoked. The fee required for the issuance of the initial permit since the preceding May 1 shall be reduced in proportion to the full calendar months that have expired.

(Ord. No. 86-2, § 1.05, 3-19-1986)

**Sec. 22-65. Revocation or suspension.**

- (a) The mayor may revoke or suspend an establishment permit issued under this article for good cause. Good cause includes, but is not limited to, the following:
  - (1) Violations of this article by the permittee or any of his agents or employees;
  - (2) Violations of state or federal law by the permittee or any of his agents or employees in the conduct of the massage business or maintenance of the premises;
  - (3) False statements or omissions contained in the permit application;
  - (4) Management, conduct, or maintenance of the massage business without regard to public health, health of patrons or customers, or without due regard to proper sanitation or hygiene;
  - (5) Conduct which would constitute grounds for denial of permit application on the part of the applicant including, but not limited to, revocation of a similar license by another jurisdiction; or
  - (6) Failure to cooperate with lawful inspection of investigation procedures.
- (b) Before suspending or revoking an establishment permit, the mayor shall send the permittee written notice of the charges and opportunity for a public hearing before the mayor, at which time the permittee may appear and present relevant evidence. The notice may be sent by first class mail, delivered in person to the permittee or to any person in actual charge of the establishment or by posting a written notice conspicuously on the premises. Unless the mayor and permittee otherwise agree, the hearing shall be held not less than ten days after the mailing of the notice, the posting of the notice, or personal delivery of the notice, as the case may be; provided, however, that the mayor, in his discretion may postpone or continue the hearing.
- (c) Nothing in this section shall prevent the village, the mayor, the police department, or any other public official from summarily abating a nuisance or from proceeding directly to court for equitable or other relief.

(Ord. No. 86-2, § 1.06, 3-19-1986)

**Sec. 22-66. Transfer.**

No permit for the operation of a massage establishment issued pursuant to the provisions of this article shall be transferable except with the written consent of the mayor and approval of the health officer;



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provided, however, that on the death or incapacity of the permittees, the massage establishment may continue in business for a reasonable period of time to allow for an orderly transfer of the permit.

(Ord. No. 86-2, § 1.19, 3-19-1986)

**Secs. 22-67—22-90. Reserved.**

***DIVISION 3. MASSEUR OR MASSEUSE PERMIT***

[Sec. 22-91. Required.](#)

[Sec. 22-92. Application form.](#)

[Sec. 22-93. Issuance.](#)

[Sec. 22-94. Revocation or suspension.](#)

**Sec. 22-91. Required.**

Any person, including a person who holds a massage establishment permit, who engages in the practice of massage, shall file an application for masseur or masseuse permit with the mayor or designee on a form provided by the mayor or designee and shall pay a nonrefundable filing fee of \$150.00 for an original application and a \$100.00 fee for a renewal application, to the village clerk, who shall issue a receipt which shall be attached to the application filed with the mayor or his designee. It shall be unlawful for any person to engage in the practice of massage unless such person possesses a current and valid masseur or masseuse permit issued by the mayor or designee.

(Ord. No. 86-2, § 1.07, 3-19-1986)

**Sec. 22-92. Application form.**

The application for a masseur or masseuse permit shall contain the following:

- (1) The name and residence address.
- (2) The social security number and driver's license number, if any.
- (3) The applicant's weight, height, color of hair and eyes.
- (4) Written evidence that the applicant is at least 18 years of age.
- (5) The business, occupation, or employment of the applicant for three years preceding the date of the application.
- (6) Whether the applicant has ever been convicted of, pleaded nolo contendere to, or suffered a forfeiture on a bond charge of committing any crime except minor traffic violations. If the answer is in the affirmative, a statement must be made giving the place and court in which such conviction, plea or forfeiture was had, the specific charge under which the conviction, plea or forfeiture was obtained and the sentence imposed as a result thereof.
- (7) The mayor, or designee, shall have right to take fingerprints and a photograph of the applicant and the right to confirm the information submitted.

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- (8) All persons who desire to perform the services of masseur or masseuse at a massage establishment shall first undergo a physical examination for contagious and communicable diseases, which shall include a recognized blood test for syphilis and acquired immune deficiency syndrome, a culture for gonorrhea, a test which will demonstrate freedom from tuberculosis (such examinations, tests and cultures shall be made and interpreted by a licensed physician acceptable to the health officer, and such other laboratory tests shall be made in a laboratory acceptable to the health officer, as may be necessitated by such examination), and shall furnish to the health officer a certificate based upon the applicant's physical examination issued within 30 days of such examination, signed by a physician duly licensed by the state and stating that the person examined is either free from any contagious or communicable diseases or incapable of communicating any of such diseases to others. Such persons shall undergo the physical examination referred to in this subsection (8) and submit to the health officer the certificate required in this section prior to commencement of their employment and at least once every six months thereafter.
- (9) All persons applying for a masseur or masseuse permit must have successfully completed the required 48 hours of instruction from an accredited school, as evidenced by providing in the application a certificate of diploma from such school.

(Ord. No. 86-2, § 1.08, 3-19-1986)

**Sec. 22-93. Issuance.**

- (a) The mayor or designee shall issue a masseur or masseuse permit within 21 days following application, unless he finds that the applicant for a masseur or masseuse permit:
  - (1) Has been convicted of a felony, an offense involving sexual misconduct with children, prostitution, soliciting for a prostitute, pandering, keeping a place of prostitution, pimping, or other offense opposed to decency and morality;
  - (2) Has had a masseur or masseuse permit or license revoked by any jurisdiction;
  - (3) Made a false statement or omission of required information in the permit application;
  - (4) Failed to pay the required fee; or
  - (5) Does not possess the minimum education requirements as described in section 22-92(9).
- (b) The mayor or designee, in his discretion, may issue a permit to a person otherwise disqualified by subsection (a)(1) of this section if he finds that such conviction occurred at least four years prior to the date of the application and that the applicant has shown evidence of rehabilitation sufficient to warrant the public trust. The mayor or designee, in his discretion, may issue a permit to any person otherwise disqualified by subsection (a)(2) of this section if he finds that such revocation occurred at least four years prior to the date of the application, that the applicant has had no subsequent revocations, and that the applicant has shown evidence of rehabilitation sufficient to warrant the public trust. The mayor or designee, in his discretion, may issue a permit to a person otherwise disqualified by subsection (a)(3) of this section if he finds that the false statement or omission was unintentional and the applicant is otherwise qualified.
- (c) Every masseur or masseuse permit issued pursuant to this article shall terminate on May 1 of each calendar year, unless sooner suspended or revoked. The fee required for issuance of the initial permit shall be reduced in proportion to the full calendar months that have expired since the previous May 1.

(Ord. No. 86-2, § 1.09, 3-19-1986)

**Sec. 22-94. Revocation or suspension.**

- (a) A masseur or masseuse permit issued by the mayor or designee shall be revoked or suspended where it appears that the masseur or masseuse has committed any conduct or omission which would be cause for denial of a permit on an original application, has committed an act in violation of this article, or has committed an act in violation of state and federal law while engaged in the practice of massage or with regard to the maintenance of the massage establishment premises.
- (b) The mayor or designee, in revoking or suspending a masseur or masseuse permit, shall send the permit holder a written notice specifying the grounds therefor. Notice may be sent by first class mail to the permit holder's last known address or to the address of the massage establishment which employs the permit holder or by personal delivery to the permit holder. The notice shall state in writing the charges against the permit holder and shall notify the permit holder of the opportunity for a public hearing before the mayor or designee at which time the permit holder may present relevant evidence. The hearing shall be held not less than ten days from the mailing of the notice or the giving of personal notice, as the case may be; provided, however, that the mayor or designee, in his discretion, may postpone or continue the hearing for good cause.
- (c) Nothing in this section shall prohibit the city, mayor, the police department or any other public official from summarily abating a nuisance or from proceeding directly to court for equitable or other relief.

(Ord. No. 86-2, § 1.10, 3-19-1986)