

BOONE COUNTY ORDINANCE #20
 MESSAGE ESTABLISHMENTS AND MESSAGE SERVICES
 BOONE COUNTY, IOWA

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SECTION 18.05 - 1: DEFINITIONS: For the Purpose of the Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

(a) "Massage". 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 hands or with the aid of any mechanical or electrical apparatus or appliances 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.

(b) "Massage Establishment". 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 in or carried on any of the activities mentioned in Section 18.05 - 1 (a) and 18.05 - 1 (d) of this Chapter.

Any establishment engaged in or carrying on, or permitting any combination of massage and bath house shall be deemed a massage establishment.

(c) "Masseur or Masseuse". Any person, including a trainee, who, for any consideration whatsoever, engages in the practice of massage as herein defined.

(d) "Public Bath House". Any place, including a private club or organization, wherein any person, firm, association, corporation or partnership engages in, conducts or carries on or permits to be engaged in, conducted or carried on, the business of giving or furnishing Russian, Finnish, Swedish, hot air, vapor, electric cabinet, steam, mineral, sweat, salt, Japanese, sauna, fomentation, or electric baths or baths of any kind whatever, excluding ordinary tub baths where an attendant is not used or required.

(e) "Person". Any individual, copartnership, firm, association, joint stock company, corporation, or combination of individuals of whatever form or character.

(f) "Employee". 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 the customers or clients.

(g) "Inspector". Boone County Sanitarian or his authorized representative, or the Boone County Sheriff or his representative.

(h) "Accredited School". Any school which furnishes a certified statement of courses offered, including anatomy and physiology, and is accredited by a state, district, or other unit of education accreditation, which provides for not less than 750 hours of instruction, which shall require at least one (1) school year and shall furnish a certificate or diploma of successful completion of such course of study and learning.

(i) "Licensee". The operator of a massage establishment.

SECTION 18.05 - 2. LICENSEES. It shall be unlawful for any person:

(a) to engage in, conduct, or carry on or permit to be engaged in, conducted or carried out, in or apart any premises in the County of Boone, the operation of a massage establishment as herein defined, without first having obtained a license from the county auditor so to do;

(b) to engage in, conduct, or carry on in the County of Boone the practice of massage as herein defined without first having obtained a license from the county auditor as a Masseur or Masseuse;

(c) as an operator of a massage establishment, to permit any person to act as masseur or masseuse unless such person is duly licensed as required in this chapter.

SECTION 18.05 - 3. EXEMPTION.

(A) No license shall be required under this chapter for establishment which is a hospital or health care facility licensed by the State of Iowa nor for a medical clinic or the office of a duly licensed chiropractor, osteopath, physician or medical doctor, or physical therapist. No license shall be required of a duly licensed barber or cosmetologist extending massage to the face, head, or shoulders.

(B) No license shall be required under this section by any person duly licensed by the State of Iowa under the Provisions of chapter 147 of the 1978 Code of Iowa or as the same may after be amended.

(C) No license shall be required under this section by trainers of any amateur, semiprofessional or professional athlete or athletic team or for facilities used for such purposes.

(D) No license shall be required under this chapter by any person who has been a masseuse or a masseur having graduated from an approved school of massage teaching principles of anatomy, physiology and hygiene and who has practiced as such in the County of Boone at the same location for at least five (5) years immediately prior to the adoption of this ordinance or for such facilities used by such person.

(E) This ordinance shall not be effective as to "Massage Establishments" or "Massage Services" located within the corporate limits of any city located in Boone County, Iowa.

SECTION 18.05 - 4. FILING AND FEE PROVISIONS

Every applicant for a license to maintain, operate, or conduct a massage establishment shall file an application with the county auditor upon a form provided by said county auditor and pay a filing fee of one hundred dollars (\$100.00) which shall not be refundable.

SECTION 18.05 - 5. APPLICATION FOR MASSAGE ESTABLISHMENT

The application for a license to operate a massage establishment shall set forth the exact nature of the massage to be administered, the proposed place of business and facilities therefore, and the names and addresses of each applicant.

In addition to the foregoing, any applicant for a license shall furnish the following information:

(a) The two (2) previous addresses immediately prior to the present address of the applicant.

(b) Written proof that the applicant is at least eighteen (18) years of age.

(c) Applicant's height, weight, color of eyes, and hair.

(d) Two (2) portrait photographs at least two inches by two inches (2" x 2").

(e) Business, occupation, or employment of the applicant for three (3) years immediately preceding the date of application.

(f) The massage or similar business license history of the applicant; whether such person, in previously operating in this or another county or state under license, has had such license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action or suspension or revocation.

(g) All criminal convictions except minor traffic violations.

(h) Applicant must furnish a diploma or certificate of graduation from an accredited school or other institution of learning wherein the method, profession and work of massage is taught; provided, however, that if the applicant will have no physical contact with his customer or clients he need not possess such diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage is taught.

(i) Such other identification and information necessary to discover the truth of the matters herein before specified as required to be set forth in the application.

(j) Nothing contained herein shall be construed to deny to the county auditor the right to take the fingerprints and additional photographs of the applicant, nor shall anything contained herein be construed to deny the right of said county auditor to confirm the height and weight of the applicant.

(k) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation together with the names and residence addresses of each of the officers, directors and each stockholder holding more than ten percent (10%) 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 the Section pertaining to a corporate applicant apply.

SECTION 18.05 - 6. MASSEUR AND MASSEUSE LICENSE.

Any person who engages in the practice of massage as herein defined shall file an application with the county auditor upon a form provided by said county auditor and shall pay a filing fee of twenty-five dollars (\$25.00) which shall not be refundable.

SECTION 18.05 - 7. OPERATOR OF MASSAGE ESTABLISHMENT EXCEPTION:

A diploma from an accredited school as defined herein will not be required by the operator of a massage establishment or for any employee where such operator or employee does not give a massage as defined herein.

SECTION 18.05 - 8. APPLICATION FORM FOR A MASSEUR OR MASSEUSE.

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

- (a) Name and residence address.
- (b) Social Security number and driver's license number, if any.
- (c) Applicant's weight, height, color of eyes and hair.
- (d) Written evidence that the applicant is at least eighteen (18) years of age.
- (e) Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application.
- (f) Whether such person has ever been convicted of any crime, except misdemeanor traffic violations. If any person mentioned in this subsection 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 and a copy of the diploma or certificate of graduation awarded the applicant completing not less than seven hundred fifty (750) hours of instruction.
- (h) The county auditor shall have the right to direct the Boone County sheriff to take fingerprints and a photograph of the applicant and the right to confirm the information submitted.

SECTION 18.05 - 9. VERIFICATION OF APPLICANT.

Every application for a license under this chapter shall be verified by the oath of the applicant.

SECTION 18.05 - 10. FACILITIES NECESSARY.

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

(a) 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 any Boone County Code, in existence at the time of construction, and the Boone County Board of Health Rules and Regulations. Plumbing fixtures shall be installed in accordance with any Boone County Code and Boone County Board of Health Rules and Regulations.

1. For toilet rooms, toilet rooms 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 feet (6') with a smooth non-absorbent finish surface of Keene cement, tile, or similar material.

2. Steam rooms and shower compartments shall have waterproofed floors, walls, and ceilings approved by the 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.

(b) Toilet facilities shall be provided in convenient locations. When five (5) 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 twenty (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. 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.

(c) Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or the vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

(d) 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 ($1/8$) of the total floor area, or shall be provided with approved artificial light and a mechanical operating ventilating system. When windows or skylights are used for ventilation at least one-half ($1/2$) of the total required window area shall be operable.

(e) All electrical equipment shall be installed in accordance with the requirement of any Boone County Code in existence at the time of construction and the Boone County Board of Health Rules and Regulations. All mechanical equipment shall be installed in accordance with the requirements of any Boone County Code in existence at the time of construction and the Boone County Board of Health Rules and Regulations.

SECTION 18.05 - 11. OPERATING REQUIREMENTS.

(a) Every portion of a massage establishment, including appliances, apparatus, and personnel shall be kept clean and in a sanitary condition.

(b) All employees shall be clean and shall wear suitable clean outer garments whose use is restricted to the massage establishment. If male and female patrons are to be served simultaneously, in a massage establishment, a separate massage room or rooms and separate dressing facilities shall be provided for male and female patrons. Where only one patron at a time is using a massage room, it may also at such time be used as a dressing facility for such patron. Further, in public bath houses, where baths, as described in Section 18.05 - 1, are given or furnished, if male and female patrons are to be served simultaneously, separate rooms shall be provided for male and female patrons.

(c) 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 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.

(d) 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) If the massage establishment is in any building used for residential or sleeping purposes, any room in which the services enumerated in Section 18.05 - 1 (a) are provided, it to be used for massage and shall be used for residential or sleeping purposes; provided, however, that the Inspector may allow such room to be used for residential or sleeping purposes if he finds that the health and safety of the patrons of such establishment will not be jeopardized.

(f) No massage establishment granted a license under the provision 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 Section 18.05 - 1 in this Chapter, nor shall any massage establishment indicate in the text of such advertising that any is available other than those services as described in Section 18.05 - 1 in this Chapter.

(g) No service enumerated in Section 18.05 - 1(a) of this Chapter 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.

(h) The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages. Such non-disposable instruments and materials shall be disinfected after use on each patron.

(i) Clean linen and towels shall be provided for each massage patron. No common use of towels or linens shall be permitted.

(j) All massage tables, bathtubs, shower stalls, steam or bath areas and floors shall have surfaces which may be readily disinfected.

(k) Oils, creams, lotions, or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.

(l) Eating in the massage work areas shall not be permitted.

(m) Animals, except for seeing-eye dogs, shall not be permitted in the massage work areas.

(n) No massage technician shall administer a massage if such massage technician knows or should know that he or she is not free of any contagious or communicable disease.

(o) No massage technician 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 of Iowa may certify that such person may be safely massaged prescribing the conditions thereof.

(p) Each massage technician shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage to each patron.

(q) No massage establishment shall operate between the hours of 10:00 P.M. and 7:00 A.M.

SECTION 18.05 - 12. REFERRAL OF APPLICATION TO OTHER DEPARTMENTS

The county auditor, upon receiving an application for a massage establishment license shall refer the application to the Boone County sanitarian who shall inspect the premises proposed to be operated as a massage establishment and shall make a written recommendation to the county auditor concerning compliance with the codes that they administer. The auditor shall also refer the application to the Boone County sheriff.

SECTION 18.05 - 13. ISSUANCE OF LICENSE FOR A MASSAGE ESTABLISHMENT

The county auditor may issue a license if all requirements for a massage establishment described in the Chapter are met and may issue a license to all persons who apply to perform massage services unless he finds:

That the operation as proposing by the applicant if permitted would not have complied with all applicable laws including but not limited to, the Building, Zoning, Housing and Fire Codes of the County of Boone or rules and regulations adopted by the Boone County Department of Health.

That the applicant and any other person who will be directly engaged in the management and operation of a massage establishment has been convicted of any of the following offenses or convicted of an offense outside of the State of Iowa that would have constituted any of the following offenses if committed within the State of Iowa:

1. An offense involving the use of force and violence upon the person of another that amounts to a felony;
2. An offense involving sexual misconduct with children;
3. An offense as defined in Chapters 709, 725, 726.2, and 728 of the 1978 Code of Iowa.

The county auditor may issue a permit to any person convicted of any of the crimes described in subsections (b) 1, 2, or 3 of this Section if he finds that such conviction occurred at least five (5) years prior to the date of the application and the applicant has had no subsequent felony con-

victions of any nature and no subsequent misdemeanor convictions for crimes mentioned in this Section.

SECTION 18.05 - 14. ISSUANCE OF MASSEUR AND MASSEUSE LICENSE

The county auditor may issue a masseur or masseuse license unless he finds:

1. An offense involving the use of force and violence on the person of another that amounts to a felony;
2. An offense involving sexual misconduct with children;
3. An offense as defined under Chapters 709, 725, 726.2 and 728 of the 1978 Code of Iowa; provided, however, that the county auditor may issue a permit to any person convicted of any crimes described in subsection (a) 1, 2, or 3 of this Section if he finds that such conviction occurred at least five (5) years prior to the date of application and the applicant has had no subsequent felony convictions of any nature and no subsequent misdemeanor convictions for crimes mentioned in this Section.
4. That the applicant has not obtained the health certificate required in this chapter.

SECTION 18.05 - 15. HEALTH CERTIFICATE

(a) All persons who desire to perform the services of massage technician at a massage parlor shall first undergo a physical examination for contagious and communicable diseases, which shall include a recognized blood test for syphilis, a culture for gonorrhea, a chest X-ray which is to be made and interpreted by a trained radiologist, and such other laboratory tests, as may be necessitated by the above examination, and shall furnish to the certificate based upon the above examination, and shall furnish to the Clerk a certificate based upon and issued within thirty (30) days of such examination, signed by a physician duly licensed by the State of Iowa and stating that the person examined is either free from any contagious or communicable disease or incapable of communicating any of such diseases to others. Such person shall undergo the physical examination referred to above and submit to the director the certificate required herein within five (5) days of the issuance of the license and at least once every six months thereafter.

The auditor or his duly authorized representative, when he has cause to believe that the massage technician is capable of communicating any contagious disease to others, may at any time require an immediate physical examination of any such person.

Upon presentation to and approval by the auditor of the certificate required herein, the auditor shall issue a health card to the applicant, containing among other items the name of the holder, the date of expiration and a statement that the holder has complied with the provisions of this section. The auditor shall refuse to issue such card if the applicant has either failed to furnish the certificate required herein or is not free from any contagious or communicable diseases.

The employer of any such person shall require all such persons to undergo the examination and obtain the certificates provided by this section, shall register at the place of employment the name and date of employment of each employee, and shall have the health cards and registration of all employees available for the inspection at all reasonable times.

Any massage establishment, its equipment, records and methods of operation shall be open during working or business hours to inspection of representatives of the Boone County Sheriff's or the Boone County Health Department.

SECTION 18.05 - 16 OPERATOR TO MAINTAIN REGISTER OF EMPLOYEES AND PATRONS

The operator of massage establishment must maintain a register of all person employed as masseurs or masseuses and their permit numbers. A register of patrons by name and address, and age shall also be maintained and be available for examination on reasonable request by the county sheriff, or by the county auditor. Persons under the age of eighteen are prohibited upon the premises.

SECTION 18.05 - 17 IDENTIFICATION NAME PLATE

The county auditor shall provide each masseur and masseuse granted a license with an identification name plate which shall contain a photograph of the masseur or masseuse and the name and license number assigned to said 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 this Chapter.

SECTION 18.05 - 18 REVOCATION OR SUSPENSION OF LICENSE

Any license issued for a massage establishment may be revoked or suspended by the Board of Supervisors after a hearing, for good cause, or in any case where any of the provisions of this Chapter are violated or where any employee of the license, including the masseur or masseuse, is engaged in any conduct which violates any of the State or local laws or ordinances at licensee's place of business and the licensee has actual or constructive knowledge of such violations or the licensee should have actual or constructive knowledge by due diligence, or in any case, where the licensee refuses to permit any duly authorized county sheriff or inspector of the County of Boone to inspect the premises or the operations therein. Such license may also be revoked or suspended by the Board of Supervisors after hearing, upon the recommendations of the inspector 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 to proper sanitation and hygiene.

SECTION 18.05 - 19 REVOCATION OF MASSEUR OR MASSEUSE LICENSE

A masseur or masseuse license issued by the county auditor to any employee may be revoked or suspended after a public hearing on any of the following grounds:

- (a) Violation of any of the provisions of this Chapter.

(b) Violation of any section of Chapters 709, 725, 726.2, and 728 of the 1978 Code of Iowa.

SECTION 18.05 - 20 EMPLOYMENT OF PERSON UNDER THE AGE OF EIGHTEEN
PROHIBITED

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 eighteen (18) years of age.

SECTION 18.05 - 21 MASSAGE PARLORS - UNLAWFUL ACTS

(a) It shall be unlawful for any persons, in any massage parlor, to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage a sexual or genital part of any other person.

(b) It shall be unlawful for any person, in a massage parlor, to expose is or her sexual or genital parts, or any portion thereof, to any other person. it shall also be unlawful for any person, in a massage parlor, to expose the sexual or genital parts, of any portion thereof, of any other person.

(c) It shall be unlawful for any person, while in the presence of any other person in a massage parlor, to fail to conceal with a fully opaque covering, the sexual or genital parts of his or her body.

(d) It shall be unlawful for any person owning, operating or managing a massage parlor, knowingly to cause, allow, or permit in or about such massage parlor, any agent, employee, or any other person under his control or supervision to perform such acts prohibited in subsections (a), (b) or (c) of this section.

(e) For the purposes of this section, the following words shall have the meaning assigned below:

Sexual or genital parts shall include the genitals pubic area, buttocks, anus, or perinem of any person, or the vulva or breasts of a female.

(f) Any person violating the provisions of the sections shall upon conviction, be punished as provided in Section 18.05 - 26 of this Ordinance.

(g) Every person owning, operating or managing a massage establishment shall post a copy of this section in a conspicuous place in the massage parlor so that it may be readily seen by person entering the premises.

SECTION 18.05 - 22 SALE OR TRANSFER

Upon sale, transfer, change of ownership, or relocation of a massage establishment, the permit and license therefore shall be null and void.

SECTION 18.05 - 23 NAME AND PLACE OF BUSINESS - CHANGE OF LOCATION

No person granted a license pursuant to this Ordinance shall operate under any name or conduct his business under any designation for any location not specified in his license.

SECTION 18.05 - 24 RENEWALS

Each licensee or masseur or masseuse 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. Each license issued under the Chapter shall expire at the end of one year from its date of issuance.

SECTION 18.05 - 25 DISPLAY OF LICENSE

Every person to whom or for whom a massage establishment license shall have been granted pursuant to the provisions of this Chapter shall display said license in a conspicuous place within the massage establishment so that the same may be readily seen by persons entering the premises.

SECTION 18.05 - 26 EMPLOYMENT OF MASSEURS AND MASSEUSES

It shall be the responsibility of the licensee for the massage establishment or the employer of any persons purporting to act as masseurs or masseuses, to insure that each person employed as a masseur or masseuse shall first have obtained a valid license pursuant to this Chapter.

SECTION 18.05 - 27 VIOLATION AND PENALTY

(a) Every person, except those persons who are specifically exempted by this Chapter, whether acting as a mere helper for the owner, employee or operator, or acting as a participant or worker in any way, who gives massages or conducts a massage establishment or who in conjunction with the massage establishment gives or administers, or practices the giving or administering of baths as defined herein or any of the services defined in Section 18.05 - 1(d) of this Chapter without first obtaining a license and paying a license fee so to do from the county auditor or who shall violate any provisions of this Chapter shall be guilty of a misdemeanor punishable by a fine not to exceed one hundred dollars (\$100) or imprisonment in the county jail for a period not to exceed thirty (30) days. Each additional day of neglect or failure to comply with this Chapter shall constitute a separate and distinct violation.

SECTION 18.05 - 28 SEVERABILITY

In any Section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Chapter or Ordinance or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or Ordinance or any part thereof. The Board of Supervisors hereby declares that it would have passed each Section, subsection, subdivision, paragraph, sentence, clause, or phrases even if others be declared unconstitutional, invalid or ineffective.

SECTION 18.05 - 29 EFFECTIVE

The provision of this Ordinance shall become effective and enforceable of DATE OF PUBLICATION 1979.

Passed and approved this 12 day of March, 1979.

/s/ Dale Danilson

DALE DANILSON

Chairman, Boone County Board of
Supervisors

/s/ Albert G. Sorensen

Attest: COUNTY AUDITOR

Certified published this date: March 15, 1979.

March 05, 1979

There being no objections, written or oral, Munson moved to dispense with reading of Ordinance. Motion seconded by Carlson. YES: Carlson, Danilson, Munson; NO: None. Carried.

March 12, 1979

There being no objections, written or oral, Carlson moved to dispense with reading of Ordinance. Motion seconded by Munson. YES: Carlson, Danilson, Munson; NO: None. Carried.