

## **CITY OF TWO RIVERS**

### **ORDINANCE**

#### **An Ordinance to amend Sections 6-9 of the Municipal Code of the City of Two Rivers, Wisconsin, to eliminate local licensing requirements for massage establishments and massage technicians:**

**WHEREAS**, Section 6-9 of the City Code grants the City of Two Rivers (the “City”) the authority to regulate massage establishments and massage technicians within the City.

**WHEREAS**, the State of Wisconsin requires massage therapists to be licensed with the State.

**WHEREAS**, Section 6-9-3 of the City Code mandates that massage establishments obtain a license to operate within the City.

**WHEREAS**, the City wishes to eliminate the duplication of license requirements for massage therapists and to eliminate the local requirement for licensing massage establishments, while maintaining local regulations relative to the operation of such establishments.

**NOW, THEREFORE**, The City Council of the City of Two Rivers, Wisconsin, does hereby ordain as follows:

#### **Sec. 6-9-2. Definitions.**

**SECTION 1.** The City of Two Rivers shall amend Section 6-9-2 of the Municipal Code, as follows:

As used in this chapter, the following terms shall have the meanings indicated:

Manager. The operator or an agent licensed under this chapter, who shall not be licensed as a massage technician.

Massage. Any process or procedure consisting of rubbing, stroking, kneading or tapping, by physical or mechanical means, upon the external parts or tissues of the body of another for a consideration.

Massage establishment. A place of business wherein ~~private~~ massage is practiced, used or made available as a principal use of the premises.

Massage room. The area where private massage is performed.

Massage technician. A person who practices, administers or uses massage for a consideration, who holds a valid license under this chapter.

Operator. Any person, association, firm, partnership, or corporation licensed by the city to operate a massage establishment.

Patron. Any person who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any consideration therefor.

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

~~Waiting area. An area adjacent to the main entrance that is separate from any area where massages are given.~~

**SECTION 2.** The City of Two Rivers shall amend Section 6-9-3 of the Municipal Code, as follows:

Sec. 6-9-3. ~~Massage Establishment~~ State Issued License Required.

A. No person may provide massage therapy or bodywork therapy, designate themselves as a massage therapist or bodywork therapist or masseur or masseuse, or use or assume such a title or any title that presumes such a title or designation that represents or may tend to represent that they are licensed by the State of Wisconsin unless the person is licensed by the State of Wisconsin pursuant to Wis. Stat. § 460. ~~corporation, or other legal entity shall suffer, cause or permit the conduct of a massage establishment without having first obtained a license therefor from the city council. A separate license shall be required for each such establishment.~~

B. No person may employ or contract for the services of an individual to provide massage therapy or bodywork therapy or any other such therapy who is required to be licensed by the State of Wisconsin pursuant to Wis. Stat. § 460 unless the individual is so licensed. ~~license shall be granted for any establishment, the main entrance to which is within 75 feet of the main entrance to a residence or of the common entry hall to residences, nor for any room or rooms in any hotel or motel.~~

~~C. — Application shall be made in writing on forms supplied by the city clerk.~~

~~D. — All applications shall include:~~

~~(1) — A nonrefundable fee as provided for in title 1 of this Code;~~

~~(2) — The location and mailing address of the proposed establishment;~~

~~(3) — For an individual or for each person of a partnership or joint venture or agent of a corporation:~~

~~(a) — Name and present address;~~

~~(b) — The two immediately previous addresses, and dates of residences at each;~~

~~(c) — Height, weight, color of hair and eyes, social security number, written proof of age, full set of fingerprints and two photographs not less than 30 days old, and at least two inches by two inches;~~

~~(d) — The business or occupation for the two years immediately preceding the date of application;~~

~~(e) — Whether a similar license has been revoked or suspended and, if so, the reason therefor and the location thereof;~~

~~(f) — Whether convicted of any crime or ordinance violation other than traffic offenses within the past three years and, if so, a listing of the same and the locations thereof.~~

~~(g) — The applicant shall undergo a criminal records inspection and background check by the chief of police or their designee and the chief of police shall make and complete an investigation of the statements made in such registration.~~

~~(4) — If the applicant is a corporation, the names and addresses of each officer and director and of the stockholders of such corporation, together with the extent of the ownership of each, and a statement whether such officer, director or stockholder holds office or stock in any other corporation conducting a similar business in the State of Wisconsin. Such application shall be made by an agent registered as such who shall have been a resident of the City of Two Rivers for at least 90 days;~~

~~(5) — All phone numbers of the proposed establishment;~~

~~(6) — The names, addresses and phone numbers of all persons employed by the applicant at the proposed establishment at the time of application;~~

~~(7) — Certification of compliance of the proposed premises with the Building Code and Fire Code or, in the alternative, applicant shall file a bond assuring that any work required to be done to bring the premises into compliance therewith shall be accomplished prior to the opening of business. Compliance with such codes and with the standards contained herein for health and sanitary operation and the acquisition of a health permit shall be conditions precedent to the opening of business; and~~

~~(8) — The application shall contain a statement signed by the applicant and each individual of a partnership or joint venture that all information contained therein is true and correct.~~

~~E. — The issuance of this license shall allow for the licensing of up to three additional managers for each establishment.~~

**SECTION 3.** The City of Two Rivers shall amend Section 6-9-4 of the Municipal Code, as follows:

**Sec. 6-9-4. Massage technician's and manager's license.**

A. No person shall act or operate for a consideration as a massage technician or manager without having first obtained a license from the State of Wisconsin to do so.

~~B. Applications for licenses shall be in writing on forms supplied by the city clerk and shall include:~~

~~(1) A nonrefundable fee as provided for in title 1 of this Code.~~

~~(2) Applicant's full name and present address, social security number, and written proof of age in excess of 18 years, height, weight, color of hair and eyes, full set of fingerprints and two photographs not less than 30 days old and at least two inches by two inches;~~

~~(3) Applicant's two previous addresses and dates of residence at each;~~

~~(4) The applicant's business, occupation or employment during the two years immediately preceding date of application;~~

~~(5) Whether the applicant has had a similar license revoked or suspended and, if so, the reason therefor and the location thereof;~~

- ~~(6) Whether the applicant has been convicted of any crime or ordinance violation other than traffic offenses within the past three years and, if so, a listing of the same and the locations thereof;~~
- ~~(7) For technicians only, a certificate from a licensed physician that the applicant has been examined and found to be free of communicable diseases and showing that such examination occurred less than 30 days prior to the date of application;~~
- ~~(8) The name and address of the licensed massage establishment by which the applicant is employed; and~~
- ~~(9) A statement signed by the applicant that all information contained therein is true and correct.~~
- ~~(10) The applicant shall undergo a criminal records inspection and background check by the chief of police or their designee and the chief of police shall make and complete an investigation of the statements made in such registration.~~

**SECTION 4.** The City of Two Rivers shall repeal Section 6-9-5 of the Municipal Code.

**~~Sec. 6-9-5. Granting of Massage Manager or Establishment licenses.~~**

~~A. — Licenses may be granted by the city council after a hearing at which the applicant may be heard at applicant's option. At least ten days' notice of such hearing shall be given to the applicant.~~

~~B. — The city council shall grant a license within 30 days of application unless it is shown, for a massage establishment license, that the operation as proposed by the applicant does not comply with all applicable state laws and city ordinances, and for all licenses that the applicant or any partner or any officer, director or stockholder of a corporate applicant has been convicted in a court of competent jurisdiction of an offense under Wis. Stats. Ch. 944, or involving substances included in Wis. Stats. Ch. 961, Subchapter II, or of an offense against the person or property of another within the past three years, that the information required on the application is incomplete or that any applicant has knowingly or with the intent to deceive made any false, misleading or fraudulent statement of fact in the application or any other document required by the city~~

~~in conjunction therewith, or that the applicant has not resided in the city for at least 90 days prior to the date of application.~~

~~C. — In the event of denial, the applicant shall receive written notification thereof setting forth the reasons of the denial within ten days after such denial;~~

~~D. — Licenses granted by the council shall expire one year from the date of granting. Reapplication therefor shall be not less than 60 days prior to such expiration date and shall be the sole responsibility of the applicant.~~

~~E. — No license shall be transferred between locations or persons and no massage establishment license shall be sold or be subject to transfer of corporate assets or change of corporate officers or directors.~~

~~F. — The massage technician's license does not entitle the holder to operate or manage a massage establishment.~~

**SECTION 5.** The City of Two Rivers shall amend Section 6-9-6 of the Municipal Code, as follows:

Sec. 6-9-6. Regulations of Establishment operations and licenses.

A. Each establishment shall at all times maintain and comply with the following regulations:

(1) The establishment shall comply with all City Codes;

(2) Only one non-flashing business sign clearly identifying the establishment as a massage establishment shall be posted at the main entrance. No description of services or caricatures or pictures which convey the same meaning shall be permitted on such sign;

(3) No establishment shall be open for business between the hours of 10:00 p.m. and 8:00 a.m.;

(4) Only massage technicians licensed pursuant to this section shall be employed as massage technicians by the establishment;

~~(5) The practice of the massage technicians employed by the establishment shall be limited to the licensed premises;~~

(6) No person under the age of 18 years shall be permitted on the premises without the presence and consent of a parent or guardian;

(7) No ~~intoxicating beverages or~~ substances included in Wis. Stats. Ch. 961, Subchapter II, shall be permitted in the licensed establishment. ~~Food shall be permitted only when there is no charge therefor and when a food preparation area, including sink with hot and cold running water, is a part of the establishment;~~

(8) The establishment shall provide a waiting area for patrons separate from any area wherein private massages are given. There shall be direct access to this area from the main entrance or from the hallway connected only to the main entrance;

(9) The operator or a licensed manager shall be present on the premises at all times during hours of operation and shall be responsible for the operation of the establishment;

(10) The establishment shall permit inspections of the premises at any time during business hours by building inspectors, fire inspectors, health inspectors, or personnel of any law enforcement agency;

(11) The establishment shall keep current records of the names and addresses of its massage technicians, agents, managers and employees and the date of employment and termination of each. Such records shall be open to inspection by any of the personnel listed in subsection A.(10);

(12) The establishment shall report any change of fact required on the application form ~~and all personnel changes to the city clerk~~ within ten days after such change;

(13) Massage establishments shall keep a record of the date and hour of each massage, the name and address of the patron receiving the massage and the name of the masseur practicing or administering the massage. Such records shall be kept for the limited purpose of tracing any communicable disease which may have been contracted by any person in such massage establishment and shall be made readily available to the inspecting health officers and shall be used only for the purpose of tracing communicable diseases and to prevent any further contamination.

(14) Massage establishments shall at all times be equipped with an adequate supply of clean sanitary towels, coverings and linens. Clean towels, coverings, and linens shall be stored in cabinets. Towels must have first been laundered and disinfected. Disposable coverings and towels shall not be used on more than one patron. Soiled linens and paper towels shall be deposited in approved receptacles.

(15) Instruments utilized in performing massage shall not be used on more than one patron unless they have first been sterilized, using disinfecting agents or sterilizing equipment approved by the City of Two Rivers Health Officer or his representative. Massage table pads and reusable table coverings shall be disinfected between each massage with approved chemicals. Chemicals used during massage shall be stored separately in containers clearly labeled as to contents. All chemical containers shall be stored in cabinets reserved solely for such purpose.

B. Each technician shall at all times comply with the following regulations:

- (1) ~~The technician shall practice only on the premises of a licensed massage establishment;~~
- (2) The technician shall massage only patrons over the age of 18 years, or patrons under the age of 18 years with the consent of a parent or guardian;
- (3) No technician shall administer a massage:
  - (a) If said technician believes, knows, or should know that he or she is not free of any contagious or communicable disease or infection;
  - (b) To any massage patron exhibiting any skin fungus, skin infection, skin inflammation or skin eruption.
- ~~(4) The technician shall report any change of fact required in the application form to the city clerk within ten days after such change;~~
- (5) Unlawful acts.



- (a) It shall be unlawful for any person in a massage parlor to place his or her hand upon or touch with any part of his or her body or to fondle or massage a sexual or genital part of any other person.
- (b) It shall be unlawful for any person in a massage parlor to offer for a consideration to place his or her hand upon or to touch with any part of his or her body or to fondle or massage a sexual or genital part of any other person.
- (c) It shall be unlawful for any person, in a massage parlor, to expose his 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, or any portion thereof, of any other person.
- (d) 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.
- (e) 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 subsection B.(2)(5)(a), (b), (c) or (d) of this section.

**SECTION 7.** The City of Two Rivers shall repeal Section 6-9-7 of the Municipal Code.

**~~Sec. 6-9-7. Revocation or suspension of license.~~**

~~A. — Grounds. The license granted herein may be revoked or suspended by the common council:~~

- ~~(1) — If the applicant has made or recorded any statement required by this chapter knowing it to be false or fraudulent or intentionally deceptive;~~
- ~~(2) — For the violation of any provision of this chapter, except for establishment license matters involving violations of City Codes, in which case the license shall be revoked after the second conviction thereof in any license year;~~
- ~~(3) — If a technician's or manager's license after one conviction of any offense under Wis. Stats. Ch. 944, or of an offense involving substances included in Wis. Stats. Ch. 961, Subchapter II, or of an offense against the person or property of a patron, whether such occurred on or off the premises of the establishment;~~

~~(4) — If an establishment license, after one conviction of any establishment personnel of an offense under Wis. Stats. Ch. 944, or of an offense against the person or property of a patron or of an offense involving substances in Ch. 961, Subchapter II, where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.~~

~~B. — Notice and hearing. No license shall be revoked or suspended by the city council except upon due notice and a hearing to determine whether the grounds for such action exist. The notice shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least 15 days prior to the date of the hearing and shall state the time and place thereof. If personal service is not possible, notice may be given by publication. The licensee shall be entitled to be heard, to be represented, to cross-examine opposing witnesses, and to present witnesses in his or her own behalf under the subpoena of the city council, if such is required. The hearing shall be stenographically recorded and a copy of the transcript shall be available to the licensee at the expense of the licensee. The city council shall decide the matter and shall prepare a written decision which shall be filed with the city clerk and a copy thereof mailed to the licensee within 20 days after the hearing.~~

**SECTION 7.** The City of Two Rivers shall amend Section 6-9-8 of the Municipal Code as follows:

**Sec. 6-9-8. Exceptions.**

This chapter shall not apply to the following classes of individuals while engaged in the duties of their respective professions:

A. Physicians, surgeons, chiropractors, osteopaths, masseurs, physical therapists or nurses licensed or registered to practice their respective professions under the laws of the State of Wisconsin, or other states, who, as part of their licensing, have completed at least 500 hours of formal, specialized and accredited training in the licensed profession.

B. Barber shops ~~and~~, beauty parlors, and nail salons; barbers and beauticians, nail technicians or manicurists licensed under the laws of the State of Wisconsin, provided that such massage as is practiced is limited to the head, ~~and~~ scalp, hands, and feet.

C. Accredited high schools and colleges and coaches and trainers therein while acting within the scope of their employment.

Adopted by the Council of the City of Two Rivers, Manitowoc County, Wisconsin this \_\_\_\_\_ day of \_\_\_\_\_, 202\_.

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Scott Stechmesser  
President, City Council

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Gregory E. Buckley  
City Manager

Attest:

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Amanda Baryenbruch, City Clerk

Approved as to form and legality:

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Sean P. Griffin  
City Attorney