

**TOWN OF MEXICO
MESSAGE ESTABLISHMENT ORDINANCE**

**ARTICLE I
GENERAL PROVISIONS**

SECTION 1. PURPOSE.

THE PURPOSE OF THIS ORDINANCE IS TO REGULATE THE OPERATION OF MESSAGE ESTABLISHMENTS IN ORDER TO PROMOTE THE PUBLIC HEALTH SAFETY AND GENERAL WELFARE.

SECTION 2. DEFINITIONS.

FOR THE PURPOSE OF THIS ORDINANCE, THE FOLLOWING DEFINITIONS SHALL APPLY UNLESS THE CONTEXT CLEARLY IMPLIES OTHERWISE.

DISQUALIFYING CRIMINAL CONVICTIONS: ANY CONVICTION FOR ANY CRIMINAL OFFENSE PUNISHABLE BY IMPRISONMENT FOR ANY PERIOD OF TIME, WHETHER OR NOT THE SENTENCE WAS IMPOSED OR SERVED, BUT NOT INCLUDING ANY CONVICTION WHICH IS SHOWN TO HAVE BEEN SET ASIDE ON APPEAL OR COLLATERALLY, OR FOR WHICH A PARDON, CERTIFICATE OF REHABILITATION, OR THE EQUIVALENT UNDER THE LAW OF THE SENTENCING JURISDICTION HAS BEEN GRANTED, OR WHICH IS NOT RATIONALLY RELATED TO THE PURPOSE OF LICENSING MESSAGE ESTABLISHMENTS.

MESSAGE : MESSAGE THERAPY AS DEFINED IN SECTION 14301 (3) OF CHAPTER 125 OF TITLE 32 OF THE MAINE REVISED STATUTES.

MESSAGE ESTABLISHMENT: ANY BUSINESS, INCLUDING BUT NOT LIMITED TO SOLE PROPRIETORSHIP, IN WHICH THE BUSINESS OPERATION CONSISTS OF PROVIDING OR MAKING AVAILABLE MESSAGE IN THE TOWN OF MEXICO FOR CONSIDERATION OR WITH THE EXPECTATION OF RECEIVING CONSIDERATION OR ANY GRATUITY, WHETHER OR NOT THE BUSINESS HAS A FIXED PLACE OF BUSINESS WITHIN THE LIMITS OF THE TOWN.

MESSAGE THERAPIST: ANY PERSON WHO PERFORMS MESSAGE FOR CONSIDERATION OR GRATUITY OR WITH THE EXPECTATION OF RECEIVING CONSIDERATION OR ANY GRATUITY.

PATRON: ANY PERSON WHO RECEIVES A MESSAGE.

PERSON: ANY INDIVIDUAL, PARTNER SHIP, CORPORATION OR OTHER ENTITY.

RECOGNIZED SCHOOL: ANY SCHOOL OR INSTITUTION OF LEARNING WHICH HAS FOR ITS PURPOSE THE TEACHING OF THE THEORY, METHOD, PROFESSION AND WORK OF MESSAGE AND IS RECOGNIZED OR CERTIFIED BY THE STATE OF MAINE OR ANY OTHER STATE. SCHOOLS OFFERING A CORRESPONDENCE COURSE NOT REQUIRING ACTUAL ATTENDANCE OF CLASS, SHALL NOT BE DEEMED A RECOGNIZED SCHOOL.

SECTION 3. EXEMPTIONS.

THE FOLLOWING SHALL BE EXEMPT FROM THIS ORDINANCE IF DULY LICENSED BY AND WHILE PRACTICING IN ACCORDANCE WITH THE LAWS OF THIS STATE: PHYSICIANS AND SURGEONS (MEDICAL DOCTORS AND DOCTORS OF OSTEOPATHY), PHYSICIANS' ASSISTANTS, NURSES, CHIROPRACTORS, PHYSICAL THERAPISTS, BARBERS, COSMETOLOGISTS, BEAUTICIANS AND OTHER HEALTH AND HYGIENE PROFESSIONALS.

SECTION 4. MESSAGE TABLES

ALL MESSAGES SHALL BE ADMINISTERED ON A MESSAGE TABLE, TREATMENT TABLE OR TREATMENT MAT.

SECTION 5. MAINTENANCE AND CLEANING.

EVERY PERSON WHO CONDUCTS OR OPERATES A MESSAGE ESTABLISHMENT SHALL KEEP THE

(MESSAGE SIMILARITY- ORDINANCE)

SAME AT ALL TIMES IN A CLEAN AND SANITARY CONDITION. ALL INSTRUMENTS, SUPPLIES AND DEVICES OF ANY KIND, OR PARTS THEREOF, THAT COME INTO CONTACT WITH THE HUMAN BODY SHALL BE KEPT CLEAN BY A MODERN AND APPROVED METHOD OF CLEANING.

SECTION 6. PROHIBITED ACTIVITIES.

NO MASSAGER SHALL ADMINISTER A MESSAGE TO A PATRON WHOSE GENITALS ARE EXPOSED.

NO MASSAGER SHALL ADMINISTER OR AGREE TO ADMINISTER A PARA-MASSAGE TO THE GENITALS OR ANUS OF PATRON.

NO MASSAGER SHALL ADMINISTER A MESSAGE UNLESS HE/SHE IS FULLY CLOTHED WITH NON-TRANSPARENT CLOTHING OF THE TYPE CUSTOMARILY WORN BY MESSAGE THERAPISTS WHILE ADMINISTERING A MESSAGE..

SECTION 7. CLOSING HOURS.

NO -MESSAGE ESTABLISHMENT SHALL BE KEPT OPEN BETWEEN THE HOURS OF 12 MIDNIGHT AND 6:00 A.M.

SECTION 8. SUPERVISION.

AT ALL TIMES WHEN OPEN FOR BUSINESS, A MESSAGE ESTABLISHMENT SHALL HAVE UPON THE PREMISES A LICENSES MESSAGE THERAPIST OR PERSON WHO POSSESS A COMBINATION MESSAGE ESTABLISHMENT/MASSAGER THERAPIST LICENSE WHO SHALL BE AVAILABLE TO SUPERVISE THE OPERATION OF THE ESTABLISHMENT AND ASSURE THAT NO VIOLATIONS OF THIS ORDINANCE OCCUR.

SECTION 9. LIST OF EMPLOYEES.

A MESSAGE ESTABLISHMENT SHALL KEEP A WRITTEN LIST OF THE NAMES AND CURRENT ADDRESSES OF ALL EMPLOYEES, BOTH ON DUTY AND OFF DUTY. SUCH LISTS SHALL BE SHOWN TO THE CHIEF OF POLICE, THE TOWN CLERK OR THE CLERK'S REPRESENTATIVE UPON REQUEST.

**ARTICLE II
LICENSES**

SECTION 1. LICENSE REQUIRED.

- A. MESSAGE ESTABLISHMENT LICENSE: NO PERSON SHALL OPERATE A MESSAGE ESTABLISHMENT WITHOUT FIRST HAVING OBTAINED A VALID MESSAGE ESTABLISHMENT LICENSE ISSUED BY THE TOWN OF MEXICO. A SEPARATE LICENSE SHALL BE REQUIRED FOR EACH MESSAGE ESTABLISHMENT.
- B. MESSAGE THERAPIST LICENSE: NO PERSON SHALL WORK AS A MESSAGE THERAPIST WITHOUT A VALID MESSAGE THERAPIST LICENSE OR COMBINED MESSAGE ESTABLISHMENT/MESSAGE THERAPIST LICENSE ISSUED BY THE TOWN OF MEXICO.
- C. COMBINED MESSAGE ESTABLISHMENT/MESSAGE THERAPIST LICENSE: A SOLE PRACTITIONER WHO EMPLOYS NO MESSAGE THERAPIST OTHER THAN HIMSELF/HERSELF MAY APPLY FOR A COMBINED MESSAGE ESTABLISHMENT/MESSAGE THERAPIST LICENSE IN LIEU OF BOTH MESSAGE ESTABLISHMENT LICENSE AND A MESSAGE THERAPIST LICENSE.
- D. CONDITIONAL MESSAGE THERAPIST LICENSE: FOR THE PURPOSE OF ALLOWING AN APPLICANT FOR A LICENSE PURSUANT TO ARTICLE II, SECTION 1.B OR II SECTION 1.C WHO IS OTHERWISE QUALIFIED TO OBTAIN SUCH A LICENSE, EXCEPT FOR COMPLIANCE WITH ARTICLE II.6, TO COMPLY WITH ARTICLE II.6, A CONDITIONAL MESSAGE THERAPIST LICENSE MAY BE ISSUED UNDER THE FOLLOWING CONDITIONS:

(MASSAGE SIMILARITY- ORDINANCE)

1. ALL PROVISIONS OF ARTICLE II SHALL APPLY TO A LICENSEE UNDER THIS SECTION, EXCEPT SECTION 6.
2. LICENSEE UNDER THIS SECTION SHALL DESIGNATE ONE MASSAGE THERAPIST OR COMBINED MASSAGE ESTABLISHMENT/MASSAGE THERAPIST LICENSED BY THE TOWN OF MEXICO AS THE SUPERVISOR FOR LICENSEE.
3. LICENSEE UNDER THIS SECTION MAY DESIGNATE NO MORE THAN ONE LICENSED SUPERVISOR PURSUANT TO ARTICLE II SECTION 1, D2 UNLESS SAID LICENSED SUPERVISOR SHALL VOLUNTARILY SURRENDER HIS/HER LICENSE.
4. THE DESIGNATED LICENSED SUPERVISOR MAY SUPERVISE TWO (2) OR FEWER CONDITIONAL MASSAGE THERAPISTS PER LICENSE YEAR.
5. LICENSES ISSUED PURSUANT TO THIS SUBSECTION D MAY NOT BE RENEWED.

SECTION 2. LICENSES DISPLAYED.

A VALID MASSAGE ESTABLISHMENT LICENSE SHALL BE DISPLAYED AT ALL TIMES IN AN OPEN AND CONSPICUOUS PLACE IN THE MASSAGE ESTABLISHMENT FOR WHICH IT WAS ISSUED. A VALID CONDITIONAL MASSAGE THERAPIST LICENSE, MASSAGE THERAPIST LICENSE OR COMBINED MASSAGE ESTABLISHMENT/MASSAGE THERAPIST LICENSE MUST BE READILY AVAILABLE TO BE PRODUCED IMMEDIATELY IF DEMANDED OF THE LICENSE.

SECTION 3. STANDARDS FOR DENIAL.

A LICENSE APPLICATION UNDER THIS ORDINANCE SHALL BE DENIED TO ANY OF THE FOLLOWING PERSONS:

A. MASSAGE ESTABLISHMENT LICENSE:

1. A CORPORATION NOT REGISTERED TO DO BUSINESS IN THIS STATE;
2. A CORPORATION IF ANY PRINCIPAL OFFICER THEREOF OR ANY PERSON HAVING AN ACTUAL OWNERSHIP INTEREST OR MANAGEMENT AUTHORITY THEREIN HAS A DISQUALIFYING CRIMINAL CONVICTION WITHIN THE IMMEDIATELY PRECEDING FIVE (5) YEARS; OR
3. AN APPLICANT OTHER THAN A CORPORATION IF SUCH APPLICANT OR ANY PERSON HAVING AN ACTUAL OWNERSHIP INTEREST OR MANAGEMENT AUTHORITY THEREIN HAS A DISQUALIFYING CRIMINAL CONVICTION, WITHIN THE IMMEDIATELY PRECEDING FIVE (5) YEARS.

B. MASSAGE THERAPIST, COMBINED MASSAGE ESTABLISHMENT/MASSAGE THERAPIST, OR CONDITIONAL MASSAGE THERAPIST:

1. THE APPLICANT HAD A DISQUALIFYING CRIMINAL CONVICTION AT ANY TIME DURING THE FIVE (5) YEARS IMMEDIATELY PRECEDING APPLICATION; OR
2. THE APPLICANT IS NOT AT LEAST EIGHTEEN (18) YEARS OF AGE.

THE BOARD OF SELECTMEN SHALL MAKE AND THE TOWN CLERK SHALL KEEP A WRITTEN RECORD OF EACH DECISION TO DENY AN APPLICATION FOR ANY LICENSE UNDER THIS ORDINANCE.

SECTION 4. GROUNDS FOR SUSPENSION OR REVOCATION.

- A. ALL LICENSES: ANY LICENSE MAY BE SUSPENDED OR REVOKED UPON A DETERMINATION THAT THE LICENSEE:

(MESSAGE SIMILARITY- ORDINANCE)

1. FAILED TO NOTIFY THE CLERK OF ANY CHANGE IN MATERIAL FACTS SET FORTH IN THE APPLICATION FOR SUCH LICENSE; OR
2. VIOLATED ANY PROVISION OF THIS ORDINANCE OR OF ANY OTHER ORDINANCE OF THE TOWN OF MEXICO.

B. MESSAGE ESTABLISHMENT OR COMBINED ESTABLISHMENT/MASSAGE THERAPIST LICENSE:

IN ADDITION TO THE PROVISIONS OF SUB-SECTION (A), EITHER A MESSAGE ESTABLISHMENT LICENSE OR COMBINED MESSAGE ESTABLISHMENT/MASSAGE THERAPIST LICENSE MAY BE SUSPENDED OR REVOKED UPON A DETERMINATION THAT THE LICENSEE;

1. PERMITTED ANY PERSON TO PERFORM A MASSAGE WITHOUT A VALID LICENSE TO DO SO;
2. PERMITTED OR ALLOWED AN EMPLOYEE OR MASSAGE THERAPIST TO VIOLATE ANY PROVISIONS OF THIS ORDINANCE ON THE PREMISES OF THE ESTABLISHMENT OR IN THE COURSE OF CONDUCT OF THE BUSINESS OF THE MESSAGE ESTABLISHMENT; OR
3. KNOWINGLY PERMITTED ANY VIOLATION OF TITLE 17-A, M.R.S.A., SECTIONS 851 AND 855. SUCH KNOWLEDGE SHALL BE PRESUMED IF THERE HAVE BEEN TWO (2) OR MORE CONVICTIONS FOR ANY SUCH OFFENSE WITHIN ANY ONE-YEAR PERIOD. THE APPLICANT OR LICENSEE MAY REBUT SAID PRESUMPTION BY SHOWING THAT (i) DUE DILIGENCE WAS EXERCISED TO PREVENT THE RECURRENCE OF ANY SUCH OFFENSE AND (ii) DESPITE SUCH DILIGENCE, HE OR SHE DID NOT KNOW AND COULD NOT REASONABLY HAVE KNOW OF ANY SUBSEQUENT OFFENSE.

SECTION 5. APPLICATION FOR MESSAGE ESTABLISHMENT, COMBINED MESSAGE ESTABLISHMENT/MASSAGE THERAPIST AND MASSAGE THERAPIST LICENSE.

ANY PERSONS DESIRING A LICENSE PURSUANT TO THIS ORDINANCE SHALL FILE A WRITTEN, SIGNED APPLICATION WITH THE TOWN CLERK ON A FORM TO BE FURNISHED BY THE CLERK. AN APPLICATION FOR A COMBINED MESSAGE ESTABLISHMENT/MASSAGE THERAPIST LICENSE OR FOR A CONDITIONAL MASSAGE THERAPIST'S LICENSE SHALL BE ACCOMPANIED BY TWO FRONT FACE PHOTOGRAPHS OF THE APPLICANT TAKEN WITH THIRTY (30) DAYS OF THE APPLICATION, OF SUCH SIZE AS THE CLERK MAY SPECIFY.

SECTION 6. BASIC PROFICIENCY.

EACH APPLICANT FOR A MASSAGE THERAPIST LICENSE OR COMBINED MESSAGE ESTABLISHMENT/MASSAGE THERAPIST LICENSE SHALL SHOW PROOF OF BASIC PROFICIENCY IN THE FIELD OF MASSAGE THERAPY WHICH MAY BE SATISFIED BY:

- A. EVIDENCE OF COMPLETION OF A FORMAL TRAINING COURSE IN MASSAGE THERAPY GIVEN BY A RECOGNIZED SCHOOL;
- B. EVIDENCE OF ONE HUNDRED (100) HOURS OF ON-THE-JOB TRAINING IN MASSAGE PERFORMED IN THE PRESENCE OF A PERSON HOLDING A VALID MASSAGE THERAPIST OR A COMBINED MESSAGE ESTABLISHMENT/MASSAGE THERAPIST LICENSE ISSUED BY THE TOWN OF MEXICO;
- C. EVIDENCE OF CONTINUOUS PRACTICE AS A MASSAGE THERAPIST FOR AT LEAST ONE (1) YEAR, ACCOMPANIED BY THE WRITTEN RECOMMENDATION OF AT LEAST FIVE (5) PERSONS HOLDING A VALID MASSAGE THERAPY LICENSE OR A COMBINED MESSAGE ESTABLISHMENT/MASSAGE LICENSE ISSUED BY THE TOWN OF MEXICO, WHICH SHALL STATE THAT SAID PERSON HAS PERSONALLY RECEIVED A MASSAGE FROM THE APPLICANT THAT WAS ADMINISTERED IN A SKILLED AND PROFESSIONAL MANNER; OR

(MASSAGE SIMILARITY- ORDINANCE)

- D. EVIDENCE OF SUCCESSFUL COMPLETION OF A CERTIFYING EXAM GIVEN BY ANOTHER MUNICIPALITY OR STATE, OR THE CERTIFYING EXAM GIVEN BY AMERICAN MASSAGE THERAPY ASSOCIATION.

SECTION 7. OBTAINING LICENSE BY FRAUD.

- A. NO PERSON SHALL MAKE ANY FALSE, UNTRUTHFUL OR FRAUDULENT STATEMENTS, EITHER WRITTEN OR ORAL, OR IN ANY WAY CONCEAL ANY MATERIAL FACT, OR GIVE OR USE ANY FICTITIOUS NAME IN ORDER TO SECURE OR AID IN SECURING A LICENSE REQUIRED BY THIS ORDINANCE. ALL NAMES, INCLUDING BUT NOT LIMITED TO MAIDEN NAME, EVER USED BY THE APPLICANT MUST BE NOTED ON THE APPLICATION.
- B. ANY LICENSE SECURED BY FRAUD, DECEIT OR CONCEALMENT SHALL BE DEEMED TO BE NULL AND VOID.

SECTION 8. USE OF LICENSE.

NO PERSON SHALL MAKE USE OF, IN ANY MANNER, TO HIS OR HER OWN OR ANOTHER'S BENEFIT, ANY LICENSE WHICH HAS NOT BEEN DULY ISSUED TO HIM OR HER IN ACCORDANCE WITH THIS ORDINANCE.

SECTION 9. COMPLIANCE OF EXISTING THERAPISTS AND MASSAGE ESTABLISHMENTS.

ANY PERSON PRESENTLY OPERATING AS A MASSAGE THERAPIST AND/OR OPERATING A MASSAGE ESTABLISHMENT IN MEXICO ON THE EFFECTIVE DATE OF THIS ORDINANCE SHALL COMPLY WITH THE TERMS OF THIS ORDINANCE BY OBTAINING A LICENSE WITHIN THREE (3) MONTHS OF THE EFFECTIVE DATE.

SECTION 10. SEVERABILITY.

IN THE EVENT THAT ANY SECTION, SUB-SECTION, OR ANY PORTION OF THIS ORDINANCE SHALL BE DECLARED BY ANY COMPETENT COURT TO BE INVALID FOR ANY REASON, SUCH DECLARATION SHALL NOT BE DEEMED TO AFFECT THE VALIDITY OF ANY OTHER SECTION, SUB-SECTION OR PORTION OF THIS ORDINANCE.

SECTION 11. PENALTY.

THE VIOLATION OF ANY PROVISION OF THIS ORDINANCE SHALL BE PUNISHED BY A FINE OF NOT LESS THAN TWO HUNDRED FIFTY (\$250.00) DOLLARS NOR MORE THAN FIVE HUNDRED (\$500.00) DOLLARS FOR EACH OFFENSE. EACH ACT OF VIOLATION AND EVERY DAY UPON WHICH ANY SUCH VIOLATION OCCURS SHALL CONSTITUTE A SEPARATE OFFENSE. IN ADDITION TO SUCH PENALTY, THE TOWN MAY ENJOIN OR ABATE ANY VIOLATION OF THIS ORDINANCE BY APPROPRIATE ACTION.

SECTION 12. TERM OF LICENSE.

LICENSES ISSUED PURSUANT TO THIS ORDINANCE SHALL BE FOR A TERM OF NO MORE THAN ONE YEAR AND SHALL EXPIRE ANNUALLY ON SEPTEMBER 30TH.

SECTION 13. APPLICATION FEES.

THE FOLLOWING FEES SHALL BE ESTABLISHED FOR THE LICENSES ISSUED UNDER THIS ORDINANCE:

- | | |
|---|----------|
| 1. MASSAGE ESTABLISHMENT LICENSE | \$ 50.00 |
| 2. MASSAGE THERAPIST LICENSE | 25.00 |
| 3. COMBINED MASSAGE ESTABLISHMENT/
MASSAGE THERAPIST | 30.00 |
| 4. CONDITIONAL MASSAGE THERAPIST | 25.00 |

**THE FOREGOING FEES ARE PAYABLE AT THE TIME OF APPLICATION AND ARE NON-REFUNDABLE.

(MASSAGE SIMILARITY- ORDINANCE)

SECTION 14. APPLICABILITY TO PENDING APPLICATIONS.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN TITLE 1 M.R.S.A. SECTION 302, THE PROVISIONS OF THIS ORDINANCE SHALL APPLY TO ANY APPLICATION OR REQUEST TO OPERATE A PARA-MASSAGE ESTABLISHMENT PREVIOUSLY SUBMITTED TO THE TOWN OF MEXICO OR TO ANY OF ITS OFFICERS OR EMPLOYEES.

ADOPTED: _____ 6/17/99

Arthur Bordeau
ARTHUR BORDEAU, CHAIRMAN

ROLAND ARSENAULT

Louise Waterhouse
LOUISE WATERHOUSE

Robert Lyons
ROBERT LYONS

BRIAN ELLIOTT
SELECTMEN, TOWN OF MEXICO