

Ordinance O2-2-26

AN ORDINANCE CREATING CHAPTER 6 BUSINESSES, ARTICLE 15, MASSAGE ESTABLISHMENTS OF THE ASHWAUBENON MUNICIPAL CODE

WHEREAS, Chapter 6 - Business, Article 8 - Escort and Massage Licenses, is being repealed and recreated as the existing ordinance is outdated, and the Village of Ashwaubenon wishes to separate the license requirements and definitions for Escort and Massage;

WHEREAS, the Village of Ashwaubenon desires to adopt updated provisions to better serve the public interest;

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE BOARD OF THE VILLAGE OF ASHWAUBENON:

SECTION 1. Chapter 6, Article 15, Massage Therapy, Bodywork Therapy, and Massage Establishments of Ashwaubenon Municipal Code, is hereby created to read:

Article 15: Massage Therapy, Bodywork Therapy, and Massage Establishments

6-15-100: Purpose and Authority

- (a) The purpose of this chapter is to protect public health and safety through the licensing and regulation of businesses and establishments providing massage therapy and bodywork therapy services, by preventing illicit and illegal operations, solicitation and human trafficking, by establishing zero tolerance for sexual misconduct, and by providing an enforcement mechanism to ensure that only state-licensed providers provide massage therapy and bodywork services.
- (b) Those portions of this chapter that prohibit violations of Wis. Stat. § 460.02 or prohibit employing or contracting for the services of an unlicensed person when a license is required by state law are authorized by Wis. Stat. § 460.17(2). Other portions of this chapter that regulate business operations are authorized by the Village's police power.
- (c) No regulation of the licensed practice of massage therapy or bodywork therapy is intended. Except as authorized by Wis. Stat. § 460.17(2), no portion of this chapter shall be interpreted as regulating the licensed practice of massage therapy.

6-15-200: Definitions

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

Committee means the Public Works and Protection Committee of the Village of Ashwaubenon.

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Establishment or massage establishment means a fixed, physical place of business wherein massage therapy or bodywork therapy services are offered. Notwithstanding the foregoing definition, “establishment” excludes any hospital, any medical clinic or medical office of a medical physician, surgeon, osteopath, chiropractor, or physical therapist, and any premises licensed by the Wisconsin Department of Health Services under ch. 50, Wis. Stats. “Establishment” further excludes the premises occupied by athletic teams where massage therapy or bodywork therapy is provided only to team members and not the general public by a coach or trainer of such athletic team within the scope of their employment as a coach or trainer. “Establishment” further excludes any fixed location where the only services provided are services exempt from licensure under Wis. Stat. § 460.03.

Licensee means a person, association, firm, partnership, corporation, or other legal entity licensed by the Village to operate a massage establishment.

Massage therapy or bodywork therapy has the definition set forth in Wis. Stat. § 460.01(4). Any other term defined by Wis. Stat. ch. 460 or by Wis. Admin. Code § MTBT 1.02 is hereby adopted and incorporated by reference, including any subsequent amendment or renumbering.

Massage therapist or bodywork therapist means a person licensed by the State of Wisconsin pursuant to Wis. Stats. Ch. 460, as it may be amended, and related statutes or rules, who practices, administers, uses, or offers to practice, administer, or use massage therapy or bodywork therapy for payment or other consideration.

6-15-300: Licensing

- (a) *Licensure of massage therapists and bodywork therapists required.* No person or entity shall engage in the practice of massage therapy or bodywork therapy or perform massage therapy or bodywork therapy for gain unless such person holds a valid license of registration pursuant to Wis. Stats. Ch. 460.
- (b) *Massage Establishment license.*
 - (1) *Village license required.*
 - a. No person, corporation, or other legal entity may operate, or allow the operation of, a massage establishment without first obtaining a massage establishment license from the Village in accordance with this section. A separate license is required for each fixed, physical business location.
 - b. 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.

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- c. Massage establishment licenses issued by the Village shall be prominently displayed on the premises during all hours of operation.
- (2) *Term.* Massage establishment licenses shall be issued for the applicable calendar year beginning on January 1 through December 31.
- (3) *Application Fee.* The application fee for a massage establishment license shall be as provided in the Village Fee Schedule. License fees are due at the time of application and are non-refundable.
- (4) *Application.*
 - a. *Form.* Applications for massage establishment licenses shall be made on the forms supplied by the Village Clerk.
 - b. *Application Contents.* All applications must be complete and include all required information. Incomplete applications may be rejected by the Clerk. Each application must be accompanied by a detailed floor plan of the establishment depicting the specific areas where licensed activities will occur, and a certificate of insurance providing coverage of not less than one million dollars (\$1,000,000.00) per occurrence.
 - c. *Certification.* All applications must be signed by the applicant and by each partner or member of a partnership or joint venture, certifying that all information provided in the application is true and correct.
- (c) *Procedures for Granting Massage Establishment Licenses.*
 - (1) *Administrative Review.* Massage establishment license applications shall be forwarded to the Chief of Public Safety and the Community Development Director, or their designees, for review and possible recommendation prior to Public Works and Protection Committee approval.
 - (2) *Criminal Background Check.* The Chief of Public Safety, or the Chief's designee, may conduct a criminal background check of any applicant as part of the Village's review of an application. Any criminal conviction of a Licensee that substantially relates to the licensed activity may constitute grounds for denial of the application by the Public Works and Protection Committee in its sole discretion.

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- (3) *Review.* Applications complying with the provisions of this section shall be forwarded to the Public Works and Protection Committee for review and action. The Committee shall review the application, the applicant's qualifications, and all other relevant factors and determine whether to grant or deny the massage establishment license.
 - (4) *License fee.* Upon approval by the Committee after review of the application, the Clerk shall request a license fee pursuant to the Village Fee Schedule. The license fee is non-refundable and must be paid in full prior to issuance of the license.
 - (5) *Denial.* If the application for a massage establishment license is denied, the applicant shall be given written notice of the reasons for denial.
 - (6) *Appeals.* Any applicant whose application for a massage establishment license has been denied by the Committee may appeal such determination to the Village Board upon written request for a hearing submitted to the Village Clerk within ten (10) days of the notice of denial.
 - a. *Evidentiary hearing.* Upon appeal, the Village Board shall conduct a hearing on the application to determine if the applicant possesses the qualifications required for licensure under this section.
 - 1. The hearing may be held in open or closed session depending on the nature of the evidence to be presented.
 - 2. The applicant may be represented by counsel, present and examine witnesses, and have a transcript of the hearing prepared at the applicant's expense.
 - b. *Board Determination.* At the conclusion of the evidentiary hearing and following deliberation in open or in closed session, the Village Board shall determine whether to uphold the denial or grant the appeal and issue the license.
 - c. *Notice.* The Village Clerk shall notify the applicant in writing of the Village Board's decision to grant or deny the appeal within ten (10) days after the Village Board makes its determination.
 - d. *Certiorari.* Any appeal of the Village Board's decision shall be by writ of certiorari to Brown County Circuit Court within thirty (30) days after the Village Board decision.
- (d) *Renewal of massage establishment licenses.* Renewal applications are due on or before December 1 of each year. The Committee shall take action on each timely-filed renewal

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application prior to the expiration of the current license on December 31. If a renewal application is received after December 1, notice of Committee's intent to grant or deny the renewal application, as well as notice of any accompanying hearing, may not be available before the license expires on December 31.

- (e) *Revocation, suspension, and nonrenewal of massage establishment licenses.* The Committee may revoke, suspend or decline to renew a massage establishment license after notice and opportunity for a hearing for reasons including, but not limited to, fraud, misrepresentation, or false statement contained in the application for a license, for a violation of any provision of this section, subject to Wis. Stats. §§ 111.321, 111.322 and 111.335, upon conviction of an offense the circumstances of which substantially relate to the operation of a massage establishment, or for any other reasonable grounds related to the public health, safety, or welfare, as determined by the Committee in its discretion.
- (f) *Exceptions.* This section shall not apply to the following businesses or professional establishments:
 - (1) Offices, clinics, or establishments of physicians, surgeons, chiropractors, osteopaths, nurses, or physical therapists licensed or registered to practice their respective professions under the laws of the State of Wisconsin existing for the provision of such occupational services.
 - (2) Barber shops and beauty parlors which employ barbers and beauticians licensed under the laws of the State of Wisconsin, provided that any massage therapy or bodywork therapy is limited to the head and scalp.
 - (3) An establishment operated by a single individual who is licensed as a massage therapist or bodywork therapist under the laws of the State of Wisconsin, provided that:
 - a. The individual is the sole owner and sole operator of the establishment;
 - b. No other person provides message therapy or bodywork therapy services at the premises; and
 - c. The individual does not employ or contract with any other massage therapist or bodywork therapist.

6-15-400: Regulation of Massage Establishment Operations

Each massage establishment shall at all times maintain and comply with the following operational regulations:

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- (a) *Hours of operation.* No establishment shall be open for business between the hours of 10:00 P.M. and 5:00 A.M.
- (b) *Licensed therapists required.* All massage therapists or bodywork therapists employed by the establishment shall possess valid licenses pursuant to Wis. Stats. Ch. 460. No unlicensed individual may perform massage or bodywork therapy at the premises at any time or for any reason.
- (c) *Records of therapists.* The licensee shall keep records of the name, address, proof of state licensure, and at least one copy of a form of government-issued ID of each of the massage therapists and bodywork therapists, and the start and end dates of employment or other contracts for performing massage therapy at the establishment. Such records shall be open to inspection by any of the personnel listed in this section. These records shall be retained by the licensee for a period of 90 days.
- (d) *Inspections.* At any time during its hours of operation, the establishment shall permit inspection of the premises by Village building inspectors, fire inspectors, health inspectors, or personnel of any law enforcement agency for purpose of ascertaining compliance with this section and conducting health and safety related inspections. Inspections shall be conducted in a reasonable manner and, to the extent practicable, so as to avoid unnecessary disruption of services or intrusion upon areas where a client is actively receiving treatment. Application for and acceptance of a license under this section constitutes consent to such inspection. Any inspection shall include areas let, subleased, or subject to any other business.
- (e) *Display of license.* Massage establishments shall prominently display their Village-issued establishment license on the premises during all hours of operation.
- (f) *Reporting of unlawful activity.* The Licensee shall immediately notify an appropriate law enforcement authority of any known or suspected sexual misconduct, solicitation, prostitution, or human trafficking activity in any way connected with the licensed premises. Failure to timely report any such unlawful activity may be grounds for revocation or nonrenewal of the license.

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- (g) *Changes in operations.* The licensee shall report any change of fact required on the application form and all personnel changes to the Village Clerk within ten (10) days of such change.

6-15-500: Violations

Any person who operates, owns, leases, manages, permits, or engages in a massage establishment or massage therapy or bodywork therapy activity without a license or in violation of this section is deemed to maintain a public nuisance and may be enjoined by the Village.

6-15-600: Penalty

Any person, including but not limited to an operator, massage therapist or bodywork therapist, owner, lessor, or other person responsible for compliance, who violates any provision of this section other than the Operation Regulations shall be subject to a forfeiture of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Any person who violates any provision of the Operation Regulations shall be subject to a forfeiture of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000). Each day a violation continues shall constitute a separate offense.

6-15-700: Severability

The provisions of any part of this section are severable. If any provision or subsection hereof or the application thereof to any person or circumstances is held invalid, the other provisions, subsections, and applications of this ordinance to other persons or circumstances shall not be affected. It is declared to be the intent of this section that the same would have been adopted had such invalid provisions, if any, not been included herein.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. Effective date. This ordinance shall take effect upon publication.

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This ordinance was adopted by the Village of Ashwaubenon Board of Trustees on the ___ day of _____, 2026.

VILLAGE OF ASHWAUBENON, WISCONSIN

By: _____

Mary Kardoskee, Village President

ATTEST:

Wendy Helgeson, Village Clerk

{SEAL}

Motion to Approve/Deny Ordinance No. O2-2-26 made by:

Votes:

Title	Name	Aye	Nay	Other
Trustee (Wards 1 & 2)	K. Servais			
Trustee (Wards 3 & 4)	G. Paul			
Trustee (Wards 5 & 6)	C. Zirbel			
Trustee (Wards 7 & 8)	C. Atkinson			
Trustee (Wards 9 & 10)	J. Krueger			
Trustee (Wards 11 & 12)				
President	M. Kardoskee			

Date of Publication: