

ORDINANCE NO. 33-79

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMAN Russell Sweetman ON THE 6th
DAY OF August, 1979.

AN ORDINANCE ENACTING CHAPTER 727
OF THE CENTERVILLE MUNICIPAL CODE
REGULATING MASSAGE ESTABLISHMENTS
AND TECHNICIANS.

THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

SECTION 1. That Chapter 727 of the Centerville Municipal Code
regulating massage establishments and technicians is hereby enacted as follows:

Section 727.01 Definitions .

For the purposes of enforcing this Chapter, the following
words are defined and shall have the meaning ascribed
to them as hereinafter set forth:

- (A) "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, pow-
der, creams, lotions, ointments or other similar prep-
arations commonly used in this practice for a purpose
other than the treatment of disorders of the human
body.
- (B) "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 in or
carried on any of the activities mentioned in Sub-
Section (A) above for any consideration whatsoever.
- (C) "Out-Call 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 establish-
ment.
- (D) "Massage Technician" means any person
who, for any consideration whatsoever, engages in the
practice of massage as defined in Sub-Section (A) above.

(E) "Employee" means any and all persons other than the massage technician, who render any service to the operator, and who receive compensation directly from the operator.

(F) "Person" means any individual, co-partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

(G) "Operator" means the permit operator of a massage establishment.

(H) "Sexual or Genital Area" means the genitals, pubic area, buttocks, anus or perineum of any person, or the vulva or breasts of a female.

Section 727.02 License Required

(A) No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, in or upon any premises in the City of Centerville, the operation of a massage establishment as herein defined, unless such massage establishment shall be licensed under this Chapter.

(B) No person shall engage in the business of or be employed as a massage technician in the City of Centerville unless he or she has obtained a license from the City Manager or his designate.

Section 727.03 Exemptions

(A) The provisions of this Chapter shall not apply to the following:

(1) Hospitals, Nursing Homes and Public Health Centers;

(2) The offices of a person who is licensed or registered by the State of Ohio Medical Board which are used while performing the licensed or registered profession;

(3) A licensed barber shop, beauty salon, school of cosmetology, or barber's school while used to perform the licensed vocation;

(4) The offices of a licensed chiropractor or physical therapist while used to perform the licensed profession.

(B) The provisions of this Chapter shall not apply to the following:

(1) A person licensed or registered by the State of Ohio Medical Board while performing the licensed or registered profession;

(2) Licensed cosmetologists, registered barbers, registered barber apprentices, licensed chiropractors, licensed practical nurses, registered nurses, licensed physical therapists, licensed physical therapist assistants while performing said profession or vocation;

(3) A person working under the direction or supervision of individuals mentioned in Sub-Sections (B) (1) and (2) hereof while performing the said profession or vocation.

Section 727.04 Application for Massage Establishment License; Fee.

(A) Application for a license to operate a massage establishment including a renewal license required by Section 727.02 (A) shall be made pursuant to this Chapter at the Office of the City Manager on a form provided. Each application shall include a filing fee of One Hundred Dollars (\$100.00) which shall not be refundable.

(B) The application for a license to operate a massage establishment shall set forth the exact nature of the massage to be administered, and the proposed place of business and facilities therefore.

(C) In addition to the foregoing, the applicant for a license, including any partner or limited partner of a partnership, and any officer or director of a corporate applicant and any stockholder holding more than ten percent (10%) of the stock of a corporate applicant, shall furnish the following information:

(1) Name, Address and Social Security Number;

(2) A certified copy of the applicant's birth certificate which evidences that the applicant is at least eighteen (18) years of age;

(3) All residential addresses for the past three (3) years;

(4) The applicant's physical description, including height, weight, color of eyes and hair;

(5) The business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application;

(6) The business history of the applicant regarding previous licenses obtained or refused from any governmental agency including revocations and suspensions and the reasons therefore;

(7) Criminal history information, including date, time and place of conviction for all violations except traffic offenses;

(8) A set of fingerprints obtained by the Division of Police and a recent two inch by two inch (2 x 2) color photograph of the applicant;

(9) If the applicant is a corporation, or a partner of a partnership which is incorporated, the name of the corporation shall be set forth exactly as shown on the Articles of Incorporation.

Section 727.05 Issuance of License for Massage Establishment.

(A) The City Manager or his designate, pursuant to the terms of this Chapter, shall issue the license to maintain, operate or conduct a massage establishment to a designated person for a specific location upon receipt of an application, unless he finds:

(1) That the operation, as proposed by the applicant, if permitted, would not be in compliance with applicable laws, including, but not limited to, the building, health, planning, zoning and fire codes of the City of Centerville and the housing code of Montgomery County, Ohio, as well as the provisions of this Chapter.

(2) That the applicant and any other person who will be directly or indirectly engaged in the management and operation of a massage establishment has been convicted of two or more felonies within the past five (5) years or any sex offense within the past five (5) years.

(3) That the application does not contain all the required information or the application contains a material misrepresentation;

(B) A massage establishment license issued pursuant to this Chapter shall terminate at the expiration of one (1) year from the date of its issuance unless subject to suspension or revocation.

Section 727.05 Revocation or Suspension of Establishment License.

(A) The City Manager or his designate shall refuse to issue or renew a massage establishment license or may revoke or suspend such license where he finds:

(1) A Section of this Chapter of the Centerville Municipal Code was violated upon the establishment premises;

(2) A violation of the Ohio Revised Code or the Centerville Municipal Code was committed upon the establishment premises;

(3) A material misrepresentation was made upon the application for a massage establishment permit;

(4) A law enforcement officer or health inspector was refused permission to inspect the premises or operation of the massage establishment during the hours of operation;

(5) A person who is not a licensed massage technician has administered a massage at the premises of the massage establishment.

(B) The issuance, renewal, denial, suspension, or revocation of a massage establishment license shall be made pursuant to the provisions of this Chapter and any appeal of any such order shall be made to the Council of the City of Centerville in writing within ten (10) days following the date of any such order. Any appeal shall be heard by the Council at its next regularly scheduled meeting following the filing of the appeal. At such hearing the person filing the appeal may appear in person or by attorney and present such witnesses and evidence that he may desire. The City Manager or his designate may appear and present such witnesses and evidence as may be necessary to support his action. A simple majority of the Council membership shall affirm, reverse or modify the decision appealed from and their decision shall be final.

Section 727.07 Application for Massage Technician License; Fee.

(A) Application for the license required by Section 727.02 (B) including a renewal license shall be made pursuant to the terms of this Chapter at the office of the City Manager on a form provided. Each application shall include a filing fee of Fifty Dollars (\$50.00) which shall not be refundable.

(B) The application for a permit to operate as a massage technician shall contain the following information:

(1) Name, residence address and Social Security number;

(2) A physical description setting forth the applicant's weight, height, hair color and color of eyes;

(3) A recent two inch by two inch (2 x 2) color photograph of the applicant and a set of fingerprints obtained by the Division of Police;

(4) A certified copy of the applicant's birth certificate which evidences that the applicant is at least eighteen (18) years of age;

(5) The business, occupation and employment of the applicant for a three (3) year period preceding the date of application;

(6) Criminal history information including the date, time, and place of all convictions for all violations except traffic offenses;

(7) Certification that the applicant has satisfactorily completed one hundred sixty (160) hours of course instruction in anatomy, physiology and massage at a school of massage approved by the Ohio State Medical Board.

Section 727.08 Issuance of License for a Massage Technician.

(A) The City Manager or his designate pursuant to this Chapter shall issue the license to engage in the business of or be employed as a massage technician in the City of Centerville upon receipt of an application, unless he finds:

(1) That the applicant has been convicted of two (2) or more felonies within the past five (5) years or any sex offense within the past five (5) years;

(2) That the application does not contain all the required information or the application contains a material misrepresentation.

(B) A massage technician license issued pursuant to this Chapter shall terminate at the expiration of one (1) year from the date of its issuance unless subject to suspension or revocation.

Section 727.09 Revocation or Suspension of Massage Technician License.

(A) The City Manager or his designate shall refuse to issue or renew a massage technician license or may revoke or suspend such license where he finds any of the following:

(1) The massage technician has been convicted of two (2) or more felonies within the past five (5) years or any sex offense within the past five (5) years;

(2) The massage technician violated any of the provisions of this Chapter of the Centerville Municipal Code.

(B) The issuance, renewal, denial, suspension or revocation of a massage technician license shall be pursuant to the provisions of this Chapter and the appeal of any such order shall be to the Council of the City of Centerville in the same manner as provided in Section 727.06 (B) hereof.

Section 727.10 Required Facilities.

No license to conduct a massage establishment shall be issued, renewed, or continued unless an inspection discloses that the establishment complies with each of the following minimum requirements:

(A) A readable sign shall be displayed at the main entrance identifying the establishment as a massage establishment, provided also that all such signs shall be in compliance with the Zoning Ordinance of the City of Centerville;

(B) Adequate equipment for disinfecting and sterilizing any instruments used for massage is provided;

(C) Hot and cold running water is provided;

(D) Closed cabinets are utilized for the storage of clean linen;

(E) Adequate dressing and toilet facilities are provided to patrons;

(F) All walls, ceilings, floors, steam or vapor rooms and all other physical facilities for the establishment are kept in good repair and maintained in a clean and sanitary condition;

(G) Clean and sanitary towels are provided for patrons receiving massage services. No common use of towels or linens shall be permitted.

Section 727.11 Operating Requirements.

(A) No license to conduct a massage establishment or to renew as a massage technician shall be issued, renewed, or continued unless each of the following provisions are complied with by the massage establishment and/or massage technician:

(1) No massage technician shall administer a massage unless completely clothed in clean nontransparent garments at all times. The term "completely clothed" shall mean having on the upper portion of the body undergarments and either a blouse or a shirt which covers all of the upper body except the arms, neck and head and on the lower body undergarments plus either pants or a skirt which shall cover the area from the waist to a point at least two (2) inches above the knee.

(2) The massage patrons private parts shall be covered by a towel, cloth or undergarments when in the presence of a massage technician or massage establishment employee.

(3) A massage technician and massage establishment shall display their license in a conspicuous place where the massage is being administered.

(4) No massage technician shall engage in such business or profession except within the hours of 8:30 A.M. and 9:30 P.M.; nor shall any operator of a massage establishment or business operate the same except within and between the aforesaid hours.

(5) A massage establishment operator and a massage technician shall maintain for a period of one (1) year correct and accurate records of the names and addresses of all persons to whom massages are administered, date and time administered, as well as the type of massage administered and the name of the person who administered the massage. Said records shall be subject to inspection during the hours of operation by any officer of the Division of Police.

(6) A massage technician shall not administer a massage to a individual of the opposite sex;

(7) The massage establishment facilities shall be subject to inspection by law enforcement officers or health inspectors during working or operating hours to assure compliance with the provisions of this Chapter;

(8) A massage technician shall not fondle, touch or massage the sexual or genital area of any patron;

(9) A massage establishment operator shall provide the names of all employees and massage technicians working for the establishment to the office of the City Manager within two days of the date the individual is employed.

(B) No massage technician or massage establishment operator shall knowingly violate a provision of Section 727.11 (A).

Section 727.12 Out-call Massage Service.

No massage technician or massage establishment shall provide "out-call massage services" which are not in compliance with the provisions of this Chapter.

Section 727.13 Transfer of Licenses.

(A) No license issued under this chapter shall be transferable to another person or location without the express written authorization of the City Manager or his designate.

(B) The change of location of a massage establishment shall require the submission of a new application and the issuance of a new license.

Section 727.14 Rules and Regulations.

The City Manager or his designate may make and enforce reasonable rules and regulations to carry out the intent of this Chapter.

Section 727.15 Application to Current Practices.

(A) Any person who is actually engaged as a massage technician or an operator of a massage establishment upon the effective date of this Section, shall have sixty (60) days from that day to comply with the provisions of this Chapter.

(B) Provided, however, a person operating as a massage technician on the date of passage of this Section and who is otherwise operating in compliance with this Chapter and who enrolls within sixty (60) days from the effective date of this Section in a school of massage, approved by the Ohio State Medical Board, may continue to operate as a massage technician so long as said enrollment continues, but not to exceed a period of one year.

Section 727.16 Severability.

In the event any Section or provision of this Chapter shall be declared by a Court of competent jurisdiction to be invalid or unconstitutional, such decision shall not effect the validity of this Chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

Section 727.99 Penalty.

Whoever violates any provision of this Chapter shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned not more than six (6) months, or both. Each days violation shall constitute a separate offense.

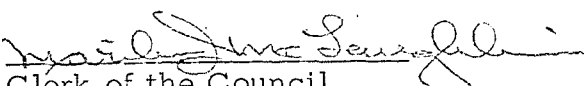
SECTION 2. This Ordinance shall become effective from and after the earliest date allowed by law.

PASSED THIS 6th day of August, 1979.



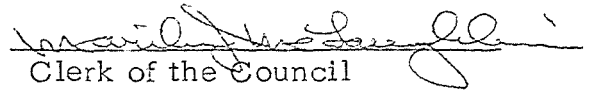
Mayor of the City of Centerville, Ohio

ATTEST:



Clerk of the Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 33-79, passed by the Council of the City of Centerville, Ohio, on the 6th day of August, 1979.


Clerk of the Council

Approved as to form, consistency
with existing laws, and the
charter and ordinances.


Robert N. Farquhar,
Municipal Attorney