Meeting:	Village Board
Meeting Date:	November 25, 2013
Agenda Item:	6b

Mission Statement

To provide our residents with a safe, friendly, attractive and active community by aggressively pursuing innovative ways to deliver valuable services.

VILLAGE BOARD MEETING STAFF REPORT

REPORT TO: Burt R. McIntyre, President
Village Board of Trustees

REPORT FROM: Paul F. Evert

AGENDA ITEM: 6b Discussion and consideration of amending Chapter 6 Article X of the Village Code relating to the governing of Massage Establishments

ACTION REQUESTED: _X_Ordinance ___Resolution __ _Motion ___Receive/File

POLICY ISSUE

Should the Village Board amend Chapter 6 Article X of the Village Coder relating to the governing of Massage Establishments?

BACKGROUND INFORMATION

Chapter 6 Article X of the Village Code contains license requirements that apply to both massage establishments and massage technicians. The ordinance also exempts from the requirements the following:

1. Physicians, surgeons, chiropractors, osteopaths, masseurs, physical therapists licensed or registered to practice their respective professions under the laws of the state, or nurses registered under the laws of the state acting under their direction and control, or certified massage therapists operating out of a physician, surgeon or chiropractic facility and acting under their direction and control.

2. Barbershops and beauty parlors, barbers and beauticians licensed under the laws of the state, provided that such massage as is practiced is limited to the head and scalp.

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

State law was changed in 2009 to require a state license for any person providing massage therapy or bodywork therapy or designating himself or herself as a massage therapist or bodywork therapist or masseur or masseuse. State law further provides that no city , village or town may enact an ordinance that regulates the practice of massage therapy of bodywork therapy by a person who is licensed by the state.

The Village has never issued either license pursuant to the current ordinance. For the above reasons we are recommending repealing Chapter 6, Article X of the ordinance and replacing it with the following language:

Sec. 6-466 License required

It is unlawful for any person, other than a state licensed "massage therapist" or "bodyworker," as these terms are defined in Section 460.02, Wisconsin Statutes, as this provision may be renumbered or amended, to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on the practice of massage upon any premises in the village.

PRIOR ACTION/REVIEW

The Board adopted the current ordinance in 2000 as a measure to discourage illegal activity from occurring at any place operating under the guise of a massage parlor.

FISCAL IMPACT:

1.	Is There A Fiscal Impact?	No
2.	Is it Currently Budgeted?	NA
3.	If Budgeted, Which Line?	NA

RECOMMENDED ACTION

Village staff recommends the Village Board amend ordinance to make it unlawful for any person, other than a state licensed "massage therapist" or "bodyworker," as these terms are defined in Section 460.02, Wisconsin Statutes,, to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on the practice of massage upon any premises in the village.

An appropriate action would be *"A motion to repeal Chapter 6 Article X and replace it with a new provision requiring*

POLICY ALTERNATIVE(S)

The Village Board could take the following actions:

- Deny the request to amend the ordinance, or request further information and table the request.

Attachment:

Chapter 460 Wis. Stats, and Chapter 6, Article X of the Village Code

CHAPTER 460

MASSAGE THERAPY AND BODYWORK THERAPY

460.01 Definitions.
460.02 License required.
460.03 Applicability.
460.04 Duties of affiliated credentialing board.
460.05 Licensure of massage therapists and bodywork therapists.
460.06 Examinations.
460.07 Display of certificate; expiration and renewal.
460.08 Temporary license.
460.09 Reciprocal license.
460.095 Massage therapy and bodywork therapy school, training program, and instructor requirements.
460.10 Continuing education.
460.11 Practice requirements.
460.12 Duty to make reports.
460.13 Advertising.
460.14 Disciplinary proceedings and actions.
460.15 Penalty.
460.17 Local regulation.

Cross-reference: See also chs. MTBT 1, 2, 3, 4, and 5, Wis. adm. code.

460.01 Definitions. In this chapter:

(1g) "Adjunctive therapy" means any of the following:

(a) The use of a device that simulates or enhances a manual action.

(b) The application of water, lubricants, or other non-prescription topical agents to the skin.

(c) The application of heat or cold to the skin in the absence of an electromagnetic device.

(1r) "Affiliated credentialing board" means the massage therapy and bodywork therapy affiliated credentialing board.

(2m) "License holder" means a person granted a license under this chapter.

(3) "Manual action" includes holding, positioning, rocking, kneading, compressing, decompressing, gliding, or percussing the soft tissue of the human body or applying a passive range of motion to the human body without joint mobilization or manipulation.

(4) "Massage therapy" or "bodywork therapy" means the science and healing art that uses manual actions and adjunctive therapies to palpate and manipulate the soft tissue of the human body in order to improve circulation, reduce tension, relieve soft tissue pain, or increase flexibility. "Massage therapy" or "bodywork therapy" includes determining whether manual actions and adjunctive therapies are appropriate or contraindicated, or whether a referral to another health care practitioner is appropriate. "Massage therapy" or "bodywork therapy" does not include making a medical, physical therapy, or chiropractic diagnosis.

(5) "Physician's office" means a place, other than a residence or a hospital, that is used primarily to provide medical care and treatment.

(6) "Sexual contact" has the meaning given in s. 939.22 (34).

(7) "Sexual intercourse" has the meaning given in s. 948.01 (7) (a).

History: 2001 a. 74; 2009 a. 12, 355.

460.02 License required. Except as provided in s. 460.03, no person may provide massage therapy or bodywork therapy, designate himself or herself as a massage therapist or bodywork therapist or masseur or masseuse, or use or assume the title "massage therapist and bodywork therapist" or "massage therapist" or "bodywork therapist" or "masseur" or "masseuse" or any title that includes "massage therapist," "bodywork therapist," or "bodyworker," or append to the person's name the letters "M.T.," "R.M.T.," "L.M.T.," "C.M.T.," "B.T.," "B.W.," "L.B.W.," "R.B.W.," or "C.B.W.," or use any other title or designation that represents or may tend to represent that he or she is licensed under this chapter, unless the person is licensed under this chapter.

History: 2001 a. 74; 2009 a. 355.

460.03 Applicability. A license under this chapter is not required for any of the following:

(1) A person holding a license, permit, registration, or certification granted by this state or the federal government who engages in a practice of massage therapy or bodywork therapy within the scope of his or her license, permit, registration, or certification and who does not imply that he or she is licensed under this chapter. A person who is exempt from licensure under this subsection may use the terms "bodywork," "bodyworker," and "bodywork therapy" to identify his or her practice.

(2) A person who is authorized to practice massage therapy or bodywork therapy in another state or country and is providing a consultation to or demonstration with a license holder. A person who is exempt from licensure under this subsection may use the terms "bodywork," "bodyworker," and "bodywork therapy" to identify his or her practice.

(2m) (a) A person who does any of the following and who satisfies the requirements of par. (b):

1. Uses touch, words, and directed movement to deepen a client's awareness of his or her existing patterns of movement and to suggest to the client new patterns of movement.

2. Uses touch to affect the energy systems of the human body.

3. Uses touch and education to effect change in the structure of the body while engaged in the practice of structural integration.

(b) The person is recognized by or meets the established standards of either a professional organization or credentialing association that recognizes a person in a practice after that person demonstrates an adequate level of training and competency and adherence to ethical standards.

(c) A person who is exempt from licensure under this subsection may use the terms "bodywork," "bodyworker," and "bodywork therapy" to identify his or her practice.

(3) A person who manipulates only the soft tissues of the hands, feet, or ears of the human body, provided that the services are not represented or implied to be massage therapy or bodywork therapy.

History: 2001 a. 74; 2009 a. 355; 2011 a. 260 s. 80.

Cross-reference: See also chs. MTBT 1, 2, 3, 4, and 5 Wis. adm. code.

460.04 Duties of affiliated credentialing board. **(1m)** The affiliated credentialing board shall prepare an examination on state laws and administrative rules governing massage therapy and bodywork therapy.

(2) The affiliated credentialing board shall promulgate rules that establish all of the following:

(a) Standards that govern the professional conduct of license holders in practicing massage therapy or bodywork therapy. The standards shall prohibit a license holder from having sexual contact or sexual intercourse with a client.

(b) Criteria for approving a training program for purposes of s. 460.05 (1) (e) 1. Rules promulgated under this paragraph shall require the training program to meet the requirements under s. 460.095 and to consist of at least 600 classroom hours.

(c) Requirements and procedures for obtaining the informed consent of a client under s. 460.11 (1) and for making a report required under s. 460.12 (1).

(d) A definition of "sexually oriented business" for purposes of s. 460.11 (3).

(e) A requirement that an applicant for a license under this chapter submit evidence satisfactory to the affiliated credentialing board that the applicant has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.

(f) Requirements to be satisfied by a person seeking a temporary license under s. 460.08. The rules promulgated under this subsection shall require the person to be a graduate of a massage therapy or bodywork therapy school or program and may require the holder of a temporary license to make disclosures to clients and to practice under the supervision of a massage therapist or bodywork therapist licensed under this chapter.

(g) A requirement that an applicant for a license under this chapter pass an examination on state laws and administrative rules governing massage therapy and bodywork therapy.

History: 2001 a. 74; 2007 a. 104; 2009 a. 355.

Cross-reference: See also chs. MTBT 1, 2, 3, 4, and 5, Wis. adm. code.

460.05 Licensure of massage therapists and bodywork therapists. (1) The affiliated credentialing board shall grant a license as a massage therapist or bodywork therapist to a person who satisfies all of the following:

(a) The person is 18 years of age or older.

(b) The person has graduated from high school or attained high school graduation equivalency as determined by the department of public instruction under s. 115.29 (4).

(c) The person submits an application for the license to the affiliated credentialing board on a form provided by the affiliated credentialing board.

(d) The person pays the fee specified in s. 440.05 (1).

(e) Except as provided in sub. (2), the person submits evidence satisfactory to the affiliated credentialing board that he or she has done all of the following:

1. Graduated from a school of massage therapy or bodywork therapy approved by the educational approval board under s. 38.50 that meets the requirements under s. 460.095 or completed a training program approved by the affiliated credentialing board under the rules promulgated under s. 460.04 (2) (b).

2. Completed at least 6 classroom hours in the laws of this state and rules of the affiliated credentialing board relating to the practice of massage therapy or bodywork therapy in a course of instruction approved by the affiliated credentialing board.

(f) The person passes the examinations under s. 460.06.

(g) The person submits evidence satisfactory to the affiliated credentialing board that he or she has in effect malpractice liability insurance coverage in an amount that is not less than $1,000,000 per occurrence and $1,000,000 for all occurrences in one year.

(h) The person has not been convicted of any of the following:

1. An offense under s. 940.22, 940.225, 944.15, 944.17, 944.30, 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.08, 948.085, 948.09, 948.095, or 948.10.

2. An offense under federal law or a law of any other state that is comparable to an offense under subd. 1.

(i) The person submits evidence satisfactory to the department that he or she has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.

(2) The affiliated credentialing board may waive a requirement specified in sub. (1) (e) if a person establishes, to the satisfaction of the affiliated credentialing board, that he or she has education, training, or other experience that is substantially equivalent to the requirement.

(4) The affiliated credentialing board may assign a unique license number to each person licensed under this chapter.

History: 2001 a. 74; 2005 a. 22, 25, 254, 277; 2007 a. 104; 2009 a. 355 ss. 21, 28 to 34.

460.06 Examinations. The affiliated credentialing board may not grant a license under this chapter unless the applicant achieves a passing grade on the following examinations:

(1) A nationally administered, entry-level competency examination for therapeutic massage and bodywork therapy that meets generally accepted psychometric principles and standards or a substantially equivalent examination approved by the affiliated credentialing board.

(2) The examination on state laws and administrative rules governing massage therapy and bodywork therapy required under s. 460.04 (2) (g).

History: 2001 a. 74 s. 16; 2009 a. 355; s. 35.17 correction in (1).

460.07 Display of certificate; expiration and renewal. (1) Each person who is licensed under this chapter shall conspicuously display the license in the place of business where he or she practices massage therapy or bodywork therapy so that the license can easily be seen and read.

(2) Renewal applications shall be submitted to the department on a form provided by the department on or before the applicable renewal date specified under s. 440.08 (2) (a) and shall include all of the following:

(a) The renewal fee determined by the department under s. 440.03 (9) (a).

(b) If applicable, proof of completion of continuing education under s. 460.10.

(c) Evidence satisfactory to the affiliated credentialing board that the applicant has in effect malpractice liability insurance coverage in an amount that is not less than $1,000,000 per occurrence and $1,000,000 for all occurrences in one year.

(d) Evidence satisfactory to the affiliated credentialing board that the applicant has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.

History: 2001 a. 74; 2007 a. 20, 104; 2009 a. 355.

460.08 Temporary license. The affiliated credentialing board may grant a temporary license for a period not to exceed 6 months to an applicant who satisfies the requirements established in the rules under s. 460.04 (2) (f). A temporary license may not be renewed.

History: 2009 a. 355.

460.09 Reciprocal license. Upon application and payment of the fee specified in s. 440.05 (2), the affiliated credentialing board shall grant a massage therapist or bodywork therapist license to a person who holds a similar license in another state or territory of the United States or another country if the affiliated credentialing board determines that the requirements for receiving the license in the other state, territory, or country are substantially equivalent to the requirements under s. 460.05.

History: 2001 a. 74; 2009 a. 355.

460.095 Massage therapy and bodywork therapy school, training program, and instructor requirements. Each massage therapy or bodywork therapy school located in this

state and each massage therapy or bodywork therapy training program offered in this state shall do all of the following:

(1) Provide and require as a prerequisite to graduation completion of a course of instruction on state laws and regulations applicable to massage therapy and bodywork therapy.

(2) Administer, score, and require as a prerequisite to graduation, the examination required under s. 460.06 (2).

(3) Ensure that each instructor hired by the school or training program on or after December 1, 2010, to teach courses in anatomy, physiology, kinesiology, and pathology has at least one of the following:

(a) Professional training and 2 years of experience in a health–related field.

(b) Two years of post–secondary education and training.

(4) Ensure that each instructor hired by the school or training program on or after December 1, 2010, to teach courses in theory and the practice of massage therapy or bodywork therapy is licensed under this chapter and has at least one of the following:

(a) Two years experience as a practicing professional.

(b) Formal education and training as a massage therapy or bodywork therapy instructor.

History: 2009 a. 355.

460.10 Continuing education. (1) The affiliated credentialing board may promulgate rules establishing all of the following:

(a) Requirements and procedures for a license holder to complete continuing education programs or courses of study to qualify for renewal of his or her license. The rules promulgated under this paragraph may not require a license holder to complete more than 24 hours of continuing education programs or courses of study in order to qualify for renewal of his or her license.

(b) Qualifications applicable to providers of continuing education programs and courses required under par. (a).

(2) The affiliated credentialing board may waive all or part of any requirement established in rules promulgated under sub. (1) (a) if it determines that prolonged illness, disability, or other exceptional circumstances have prevented a license holder from completing the requirement.

History: 2001 a. 74; 2009 a. 355; 2011 a. 260.

460.11 Practice requirements. (1) A license holder may not practice massage therapy or bodywork therapy on a client unless the license holder first obtains the informed consent of the client and has informed the client that he or she may withdraw the consent at any time.

(2) A license holder shall keep confidential any information that a client in confidence gives to the license holder and any other information that the license holder obtains about a client in the course of practicing massage therapy or bodywork therapy that a reasonable person in the client's position would want kept confidential, unless the information is otherwise required by law to be disclosed or the client specifically authorizes the disclosure of the information.

(3) A license holder may not, whether for compensation or not, practice massage therapy or bodywork therapy for a sexually oriented business, as defined by the affiliated credentialing board by rule.

History: 2001 a. 74; 2009 a. 355.

460.12 Duty to make reports. (1) A license holder shall submit a report to the affiliated credentialing board if he or she has reasonable cause to believe that another license holder has committed a crime relating to prostitution under ss. 944.30 to 944.34 or has had sexual contact or sexual intercourse with a client. If the report relates to sexual contact or sexual intercourse with a client, the report may not identify the client unless the client has provided written consent for disclosure of this information.

(2) The affiliated credentialing board may use a report made under sub. (1) as the basis for an investigation under s. 460.14 (1). If, after an investigation, the affiliated credentialing board has reasonable cause to believe that a license holder has committed a crime, the affiliated credentialing board shall report the belief to the district attorney for the county in which the crime, in the opinion of the affiliated credentialing board, occurred.

(3) If, after an investigation, the affiliated credentialing board determines that a report submitted under sub. (1) is without merit, the affiliated credentialing board shall remove the report from the record of the license holder who is the subject of the report.

(4) All reports and records made from reports under sub. (1) and maintained by the affiliated credentialing board, the department, district attorneys, and other persons, officials, and institutions shall be confidential and are exempt from disclosure under s. 19.35 (1). Information regarding the identity of a client with whom a license holder is suspected of having sexual contact or sexual intercourse shall not be disclosed by persons who have received or have access to a report or record unless disclosure is consented to in writing by the client. The report of information under sub. (1) and the disclosure of a report or record under this subsection does not violate any person's responsibility for maintaining the confidentiality of patient health care records, as defined in s. 146.81 (4) and as required under s. 146.82. Reports and records may be disclosed only to the affiliated credentialing board, the department, and the appropriate staff of a district attorney or a law enforcement agency within this state for purposes of investigation or prosecution.

(5) (a) In this subsection, "violation" means a violation of any state or local law that is punishable by a forfeiture.

(b) A license holder shall submit a written report to the affiliated credentialing board if he or she is convicted of a felony or misdemeanor, or is found to have committed a violation, in this state or elsewhere, and if the circumstances of the felony, misdemeanor, or violation substantially relate to the practice of massage therapy or bodywork therapy. The report shall identify the date, place, and nature of the conviction or finding and shall be submitted within 30 days after the entry of the judgment of conviction or the judgment finding that he or she committed the violation. If the report is submitted by mail, the report is considered to be submitted on the date that it is mailed.

History: 2001 a. 74; 2009 a. 355.

460.13 Advertising. Except as provided in s. 460.03 (1) and (2), a license holder may not advertise that he or she practices massage therapy or bodywork therapy unless the advertisement includes a statement that the license holder is a "licensed massage therapist and bodywork therapist" or "licensed massage therapist" or "licensed bodywork therapist."

History: 2001 a. 74; 2009 a. 355; 2011 a. 260 s. 80.

460.14 Disciplinary proceedings and actions. (1) Subject to the rules promulgated under s. 440.03 (1), the affiliated credentialing board may make investigations and conduct hearings to determine whether a violation of this chapter or any rule promulgated under this chapter has occurred.

(2) Subject to the rules promulgated under s. 440.03 (1), the affiliated credentialing board may reprimand a license holder or deny, limit, suspend, or revoke a license under this chapter if it finds that the applicant or license holder has done any of the following:

(a) Made a material misstatement in an application for a license or for renewal of a license.

(b) Subject to ss. 111.321, 111.322, and 111.335, been convicted of an offense the circumstances of which substantially relate to the practice of massage therapy or bodywork therapy.

(c) Advertised in a manner that is false, deceptive, or misleading.

(d) Advertised, practiced, or attempted to practice under another's name.

(e) Subject to ss. 111.321, 111.322, and 111.34, practiced massage therapy or bodywork therapy while his or her ability to practice was impaired by alcohol or other drugs.

(f) Intentionally made a false statement in a report submitted under s. 460.12 (1).

(g) Engaged in unprofessional conduct in violation of the standards established in rules promulgated under s. 460.04 (2) (a).

(h) Engaged in conduct while practicing massage therapy or bodywork therapy that jeopardizes the health, safety, or welfare of a client or that evidences a lack of knowledge of, inability to apply, or the negligent application of, principles or skills of massage therapy or bodywork therapy.

(j) Violated this chapter or any rule promulgated under this chapter.

(2m) Subject to the rules promulgated under s. 440.03 (1), the affiliated credentialing board shall revoke a license under this chapter if the license holder is convicted of any of the following:

(a) An offense under s. 940.22, 940.225, 944.15, 944.17, 944.30, 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.08, 948.085, 948.09, 948.095, or 948.10.

(b) An offense under federal law or a law of any other state that is comparable to an offense under par. (a).

(3) The affiliated credentialing board may restore a license that has been suspended or revoked on such terms and conditions as the affiliated credentialing board may deem appropriate.

History: 2001 a. 74; 2005 a. 277; 2009 a. 355.

460.15 Penalty. Any person who violates this chapter or any rule promulgated under this chapter shall forfeit not more than $1,000 for each violation.

History: 2001 a. 74; 2009 a. 355.

460.17 Local regulation. A city, village, town, or county may not enact an ordinance that regulates the practice of massage therapy or bodywork therapy by a person who is licensed by the affiliated credentialing board under this chapter. No provision of any ordinance enacted by a city, village, town, or county that is in effect before February 1, 1999, and that relates to the practice of massage therapy or bodywork therapy, may be enforced against a person who is licensed by the affiliated credentialing board under this chapter.

History: 2001 a. 74 s. 19; 2009 a. 355.

ARTICLE X. MASSAGE ESTABLISHMENTS

DIVISION 1. GENERALLY

Sec. 6-439. Definitions.

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

Manager means the operator or an agent licensed under this section who shall not be licensed as a massage technician.

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

Massage room means the area where private massage is performed.

Massage technician means a person who practices, administers or uses, or offers to practice, administer or use, massage for a consideration.

Operator means any person, association, firm, partnership or corporation licensed by the village to operate a massage establishment.

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

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

Waiting area means any area adjacent to the main entrance that is separate from any area where massages are given.
(Comp. Ords. 2000, § 9.22(2); Ord. No. 1986-7)

Sec. 6-440. Penalty.

Any person violating any provision of this section shall, upon conviction, be subject to a forfeiture as provided in section 1-16.
(Comp. Ords. 2000, § 9.22(10); Ord. No. 1986-7)

Sec. 6-441. Regulated.

It shall be unlawful for any person, corporation of other legal entity to suffer, cause or permit the operation of a massage establishment or for a person to operate as a massage technician, agent, manager or employee, except in strict compliance with this article.
(Comp. Ords. 2000, § 9.22(1); Ord. No. 1986-7)

Secs. 6-442—6-465. Reserved.

DIVISION 2. MASSAGE ESTABLISHMENT

Sec. 6-466. License.

(a) No person, 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 village board. A separate license shall be acquired for each such establishment.

(b) No 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 rooms in any hotel or motel.

(c) Applications shall be made in writing on forms supplied by the village clerk. If application is made for a location not previously licensed, the village clerk shall, by regular mail, notify all property owners and registered electors within 250 feet of the proposed location at least ten days before the hearing on the granting of such license.

(d) All applications shall include the following:

(1) A nonrefundable fee of $250.00.

(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, the following:

a. Name and present address.

b. The two immediately previous addresses and dates of residence 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 more 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.

(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. Such application shall be made by an agent registered as such who shall have been a resident of the village for at least 90 days.

(5) All telephone numbers of the proposed establishment.

(6) The names, addresses and telephone numbers of all persons employed by the applicant at the proposed establishment at the time of the application.

(7) Certification of compliance of the proposed premises with the building code and the 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 shall be conditions precedent to the opening of business.

(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 the license shall allow for the licensing of up to three additional managers for each establishment.
(Comp. Ords. 2000, § 9.22(3); Ord. No. 1986-7)

Sec. 6-467. Massage technician's and manager's permits.

(a) No person shall act or operate for a consideration as a massage technician or manager without having first obtained a permit to do so. Any person who is issued a license of registration by the state department of regulation and licensing pursuant to subchapter XI of chapter 440 of the Wisconsin Department of Regulation and Licensing Administrative Code is exempt from this section.

(b) Applications for permits shall be in writing on forms supplied by the village clerk:

(1) A nonrefundable fee of $50.00.

(2) Applicant's full name and present address, social security number, written proof of age in excess of 18 years, height, weight, color of hair and eyes, full set of fingerprints and two photographs not more 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 permit 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.

(9) A statement signed by the applicant that all information contained therein is true and correct.
(Comp. Ords. 2000, § 9.22(4); Ord. No. 1986-7; Ord. No. 2001-23, § 1, 10-8-2001)

Sec. 6-468. Granting of licenses and permits.

(a) Licenses and permits may be granted by the village board after a hearing at which the applicant may be heard at the applicant's option. At least ten days' notice of such hearing shall be given to the applicant.

(b) The village board shall grant a license or permit 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 village ordinances, and for all licenses and permits, 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. § 961.11 et seq., 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 document required by the village in conjunction therewith, or that the applicant has not resided in the village for at least 90 days prior to the date of the application.

(c) In the event of denial, the applicant shall receive written notification thereof, setting forth the reasons for the denial, within ten days after such denial.

(d) Licenses or permits granted by the village board shall expire one year from the date of granting. Reapplication therefor shall not be less than 60 days prior to such expiration date and shall be the sole responsibility of the applicant.

(e) No license or permit 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 permit does not entitle the holder to operate or manage a massage establishment unless the technician is the sole proprietor of the establishment and employs no other person in the business.
(Comp. Ords. 2000, § 9.22(5); Ord. No. 1986-7)

Secs. 6-469—6-489. Reserved.

DIVISION 3. REGULATIONS OF OPERATIONS

Sec. 6-490. Operation regulations—For establishments.

Each establishment shall, at all times, maintain and comply with the following general regulations:

(1) The establishment shall comply with all state laws and all ordinances of the village.

(2) Only one nonflashing business sign clearly identifying the establishment as a massage establishment shall be posted at the main entrance. No description of services 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 having permits issued pursuant to this article shall be employed as massage technicians by the establishment.

(5) The practice of all 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.

(7) No intoxicating beverages or substance included in Wis. Stats. ch. 161, subch. 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 a 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 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 manager having a permit 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 village 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 (10) of this section.

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

(Comp. Ords. 2000, § 9.22(6)(a); Ord. No. 1986-7)

Sec. 6-491. Same—For technicians.

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.

(3) No technician shall administer a massage:

a. If said technician believes, knows or should know that he 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 village clerk within ten days after such change.

(5) It shall be unlawful for any person:

a. In a massage establishment to place his hand upon, to touch with any part of his body, to fondle in any manner, or to massage a sexual or genital part of any other person.

b. In a massage establishment to expose his sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person in a massage establishment to expose the sexual or genital parts, or any portion thereof, of any other person.

c. While in the presence of any other person in a massage establishment, to fail to conceal with a fully opaque covering, the sexual or genital parts of his body.

d. Owning, operating or managing a massage establishment, knowingly, to cause, allow or permit in or about such massage establishment any agent, employee or any other person under his control or supervision to perform such acts prohibited in subsection (5)a, b or c of this section.

e. In a massage establishment, for a consideration, to offer to perform or to make available, permit or in any way participate in the performance of any act prohibited by subsection (5)a, b or c of this section.

(Comp. Ords. 2000, § 9.22(6)(b); Ord. No. 1986-7)

Secs. 6-492—6-520. Reserved.

DIVISION 4. REVOCATION OR SUSPENSION OF LICENSE OR PERMIT

Sec. 6-521. Grounds.

The license or permit granted herein may be revoked, or suspended for up to six months, by the village board for any of the following reasons:

(1) If the applicant has made or recorded any statement required by this article knowing it to be false or fraudulent or intentionally deceptive.

(2) For the violation of any provision of this article.

(3) If a technician's or manager's permit, after one conviction of any offense under Wis. Stats. ch. 944, or of an offense involving substances included in Wis. Stats. ch. 161, subch. II, or of any 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 Wis. Stats. ch. 161, subch. 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.

(Comp. Ords. 2000, § 9.22(7)(a); Ord. No. 1986-7; Ord. No. 1996-7)

Sec. 6-522. Notice and hearing.

No license or permit shall be revoked or suspended by the village board, except upon due notice and hearing to determine whether grounds for such action exist. The notice shall be in writing and shall state the grounds of the complaint against the licensee or permittee. The notice shall be served upon the licensee or permittee at least 15 days prior to the date of the hearing and shall state the time and place thereof. The licensee or permittee shall be entitled to be heard, to be represented, to cross examine opposing witnesses, and to present witnesses in his own behalf under the subpoena of the village board if such is required. The hearing shall be stenographically recorded and a copy of the transcript shall be available to the licensee or permittee at the expense of the licensee or permittee. The village board shall decide the matter and shall prepare a written decision which shall be filed with the village clerk and a copy thereof mailed to the licensee or permittee within 20 days after the hearing.

(Comp. Ords. 2000, § 9.22(7)(b); Ord. No. 1986-7; Ord. No. 1996-7)

Sec. 6-523. Exceptions.

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

(1) Physicians, surgeons, chiropractors, osteopaths, masseurs, physical therapists licensed or registered to practice their respective professions under the laws of the state, or nurses registered under the laws of the state acting under their direction and control, or certified massage therapists operating out of a physician, surgeon or chiropractic facility and acting under their direction and control.

(2) Barbershops and beauty parlors, barbers and beauticians licensed under the laws of the state, provided that such massage as is practiced is limited to the head and scalp.

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

(Comp. Ords. 2000, § 9.22(8); Ord. No. 1986-7; Ord. No. 1996-7)

Sec. 6-524. Operation without a license a public nuisance.

The operation of a massage establishment without a license or the activity of an individual as a massage technician without a permit is deemed a public nuisance and may be enjoined by the village.

(Comp. Ords. 2000, § 9.22(9); Ord. No. 1986-7)

Secs. 6-525—6-541. Reserved.