



2020

Application for Massage Establishment
REQUIRED DOCUMENTS

1. COMPLETE NOTARIZED APPLICATION___
2. DEED/LEASE___
3. INSURANCE___
4. CORPORATE RESOLUTION___
5. CERTIFICATE OF OCCUPANCY___
6. PHOTO ID OWNER___
7. PHOTO ID ALL MASSAGE THERAPIST___
8. DIPLOMA___
9. NYS MASSAGE THERAPIST LICENSE___
10. 2 PHOTOS OF EACH LICENSED MASSAGE THERAPIST___
11. AFFIDAVIT OF VALIDITY___
12. COLOR PHOTO OF FRONT OF BUILDING WITH SIGN___
13. UPON APPROVAL A \$2000.00 APPLICATION/LICENSE FEE MUST BE SUBMITTED BY CHECK OR MONEY ORDER___

Property Owner: _____

Name of Business: _____

Address: _____

Phone: _____ Location: _____

Tenant/Operator: _____ Phone: _____

LIST OF MASSAGE THERAPISTS WORKING ON PREMISES

NAME:	NYS LICENSE #:	NYS CERTIFICATE #

Note: All Massage Therapists need to submit a copy of their New York State License Massage Therapist License, a valid NYS government ID and 2 photos. Changes in personnel must be reported to the Town Clerk's Office within 5 days of their hiring. Failing to do so can result in the revocation of your Massage Establishment License.

Chapter 148

MESSAGE ESTABLISHMENTS

GENERAL REFERENCES

Zoning — See Ch. 213.

§ 148-1. Legislative intent.

The Town Board finds it necessary to protect the public from establishments which are unlicensed, from performing massages on unsuspecting persons and from establishments operating under the guise of being a massage establishment, when actually engaging in illegal behavior and subjecting the public to exposure of unclean, unhealthy and possibly contaminated conditions.

§ 148-2. Definitions.

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

MESSAGE — Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft pads of the body with the hands or with the aid of any mechanical electrical apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, lotions, ointments, or other similar preparations.

MESSAGE ESTABLISHMENT — A fixed place of business where more than one person engages in or carries on, or permits to be engaged in or carried on, the practice of massage.

MESSAGE PRACTITIONER — Any individual who, for any monetary consideration whatsoever, engages in the practice of massage. "Massage practitioner" shall include all massage practitioners.

PERMITTEE — The owner, proprietor, manager, or operator of a massage establishment, outcall massage service, or solo practitioner massage establishment.

PERSON — Any individual, partnership, firm, association, company, corporation, or combination of individuals of whatever form or character.

RECOGNIZED SCHOOL FOR MESSAGE — Requires graduation from a school or institute of massage therapy with a program registered by the Department of Education of the State of New York, or its substantial equivalent in both subject matter and extent of training, provided that the program in such school or institute shall consist of classroom instruction of a total of not less than 500 hours in subjects satisfactory to the Department and upon completion must: pass an examination satisfactory to the State Board for Massage Therapy and in accordance with the Commissioner's regulations.

SOLO PRACTITIONER MESSAGE ESTABLISHMENT—A fixed place of business where a person holding an advanced massage practitioner permit engages in or carries on, or permits to be engaged in or carried on, the practice of massage. Said fixed place of business may be shared by two to four advanced massage practitioners, or two to four advanced massage practitioners and one or more health or healing arts practitioners, except as otherwise provided by law.

148:1

TOWN — The Town of Babylon.

§ 148-3. Licensing; location; standards and conditions. [Amended 3-1-2011 by L.L. No. 6-2011]

The fee for a license hereunder or for a renewal thereof shall be \$2,000. The fee shall be payable to the Town Clerk. **[Amended 3-9-2016 by L.L. No. 4-2016]**

A.

No massage establishments may be open, operate, exist or be occupied within the Town of Babylon, unless a license shall first have been obtained for such establishment from the Town Clerk's office, except as provided herein:

The massage establishment and any massage practitioner working or practicing or occupying the establishment has first obtained a license pursuant to New York State Education Law Article 155, after graduation from a recognized school for massage; and further provided that

(1)

The use is so located that the premises upon which it is conducted are not less than 1,000 feet from the premises of any other massage establishment; and further provided that

(2)

The following standards and conditions are met:

The hours of operation of the massage activity shall be limited to from 8:00 a.m. to 9:00 p.m.;

(a)

There shall be no outdoor activity associated with the massage activity or establishment;

(b)

All refuse, garbage, waste, solid or otherwise, shall be properly disposed of, laundry shall be changed after each massage/client, laundry shall be cleaned on a daily basis during the days the establishment is in operation, all rooms, tables, etc., shall be sanitized daily, and all massage practitioners shall sanitize their hands prior to performing a massage; and

(c)

(d) There shall be no alcoholic beverages served on the premises;

Change in ownership or change in operation of the massage establishment requires a new permit and shall be required to meet these standards and conditions.

(e)

(3)

The following are operating requirements: **[Added 9-28-2016 by L.L. No. 16-2016]**

Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.

(a)

Price rates for all services shall be prominently posted or provided in brochures in the reception area in a location available to all prospective customers.

(b)

All employees, including licensed massage therapists, shall be clean and fully covered in clean clothing, excluding the arms and hands.

(c)

(4)

B.

§ 148-2 BABYLON CODE § 148-3

148:2

§ 148-4. Exemptions.

Nothing contained in this chapter shall be construed to prohibit:

All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.

(d)

The sexual or genital area of patrons must be covered by sheets, cloths or undergarments when in the presence of an employee or certified massage therapist.

(e)

It shall be unlawful for any person, knowingly, in a massage establishment, to place his hand upon, or to touch with any part of his body, to fondle in any manner, or to massage, a sexual or genital area of any other person.

(f)

No licensed massage therapist, employee or operator shall perform, offer, or agree to perform any act which would require the touching of a patron's genital area.

(g)

All massage therapists licensed pursuant to this chapter shall display at all times while within the massage establishment Town-issued identification displaying that the massage therapist has been licensed under this chapter.

(h)

Oils, creams, lotions or other preparations used in administering massages shall

be kept in clean, closed containers or cabinets and shall be dispensed in unit doses so that said bulk containers are not contaminated between clients.

(i)

Massage may be practiced only for the purposes of physical fitness, relaxation, or medical therapy. The practice of massage for any other purpose is prohibited.

(j)

The practice of massage therapy by any person who is authorized to practice medicine, nursing, osteopathy, physiotherapy, chiropractic, or podiatry in accordance with the provisions of this title.¹

A.

The practice of that massage which is customarily given in barber shops or beauty parlors for the purpose of beautification by any licensed barber or beauty culturist.

B.

The practice of massage therapy by any person employed in a medical institution licensed or chartered by the State of New York, provided that such person is under the on-site supervision of a person licensed to practice massage therapy or authorized to practice massage therapy by Subsection A of this section, or by any person enrolled in a program of a school or institute of massage therapy registered by the Department, or enrolled in a program which satisfies the requirements of § 7804 of this article,² provided that such person is under the on-site supervision of a person licensed to practice massage therapy or authorized to practice massage therapy by Subsection A of this section.

C.

The practice of massage therapy by any person duly employed as a trainer by a professional athletic association, club or team, or as a member of the physical education department of an accredited university, college or high school.

D.

1. Editor's Note: See Education Law § 7805.

2. Editor's Note: See Education Law § 7804.

§ 148-3 MASSAGE ESTABLISHMENTS § 148-4

148:3

§ 148-5. Revocation of permit. [Added 9-28-2016 by L.L. No. 16-2016]

The practice of massage therapy by any person employed by a corporation or association organized exclusively for the moral or mental improvement of men, women or children.

E.

Where the only massage service provided is a chair massage, such service is visible to the public, and customers are fully-clothed at all times, said premises shall not be considered a massage establishment.

F.

The Town Clerk may revoke a license or approval issued under the provisions of this chapter in the following instances:

Where he or she finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the massage establishment license was based; or

(1)

Where he or she finds that the massage establishment license was issued in error and should not have been issued in accordance with the applicable law; or

(2)

Where he or she finds that the work performed under the massage establishment license is not being performed in accordance with the provisions of the application, plans or specifications; or

(3)

Where he or she finds that the licensee/permittee fails or refuses to comply with a stop-work order issued by the Zoning Inspector and/or Building Inspector; or

(4)

Where he or she finds that the licensee/permittee's New York State professional license has been revoked, annulled, or suspended by the Board of Regents; or

(5)

Where he or she finds that the licensee/permittee has violated any of the provisions of this Chapter; or

(6)

Where he or she finds that the licensee/permittee has been issued and/or any other person who is directly or indirectly engaged in the management and operation of the massage establishment has been convicted of:

(a) A felony;

(b) An offense involving sexual misconduct with children;

Soliciting for a prostitute, pimping, prostitution, or misdemeanor involving moral turpitude.

(c)

(7)

A.

Such revocation shall take place after notice to the applicant and an opportunity for the applicant to be heard by the Town Clerk or his/her designee.

B.

No fees, as provided for pursuant to § 148-3 of this Code, shall be refunded after the revocation of a massage establishment license.

C.

§ 148-4 BABYLON CODE § 148-5

148:4