

REGULATING PERSONS AND ESTABLISHMENTS PROVIDING SERVICES SIMILAR TO MASSAGE THERAPY

Amended June 5, 2018

ARTICLE I. GENERAL PROVISIONS

Section 1. Purpose.

The purpose of this Ordinance is to regulate services which appear similar to massage therapy as defined in and regulated by Chapter 125 of Title 32 of the Maine Revised Statutes but which are not regulated under that Chapter (hereinafter “para-massage.”)

Section 2. Definitions.

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly implies otherwise.

Disqualifying Criminal Conviction – 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 para-massage establishments.

Massage Therapy – The professional practice of massage therapy as defined in 32 M.R.S.A. §14301(4).

Para-Massage – Any method of rubbing, kneading, tapping, vibration, compression, percussion, application of friction or manipulation of the external parts of the human body with the hands or other parts of the body or with the aid of any instrument or device, and which is not massage therapy.

Para – Massage Establishment – Any business, including but not limited to sole proprietorship, in which the business operation consists of providing or making available para-massage 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.

Para-Massager – Any person who performs a para-massage for consideration or gratuity or with the expectation of receiving consideration or any gratuity.

Patron – Any person who receives a para-massage.

Person – Any individual, partnership, corporation or other entity.

Section 3. Exemptions.

The following shall be exempt from this Ordinance while duly licensed or registered under and practicing in accordance with the laws of this State: massage therapists as defined in 32 M.R.S.A. §14301(3), physicians, physicians' assistants, surgeons, osteopaths, nurses, chiropractors, physical therapists, barbers, cosmetologists, beauticians and other health and hygiene professionals.

Section 4. All para-massages shall be administered on a massage table, treatment table or treatment mat.

Section 5. Maintenance and Cleaning.

Every person who conducts or operates a para-massage establishment shall keep the 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.

- A. No para-massager shall administer a para-massage to a patron whose genitals are exposed.
- B. No para-massager shall administer or agree to administer a para-massage to the genitals or anus of a patron.
- C. No para-massager shall administer a para-massage unless he/she is fully clothed with non-transparent clothing.

Section 7. Closing Hours.

No para-massage establishments 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 para-massage establishment shall have upon the premises a licensed para-massager or person who possesses a combination para-massage establishment/para-massager 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 para-massage establishment shall keep a written list of the names and current addresses of

all employees, both on and off duty. Such list 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. Establishment License - No person shall operate a para-massage establishment without first having obtained a valid para-massage establishment license issued by the Raymond Board of Selectmen. A separate license shall be required for each such para-massage establishment.
- B. Para-Massager License - No person shall work as a para-massager without a valid para-massager license or a combined para-massage establishment/para-massager license issued by the Raymond Board of Selectmen.
- C. Combined Establishment/Para-Massage License - A sole practitioner who employs no para-massager other than himself/herself may apply for a combined para-massage establishment/para-massager license.

Section 2. Licenses Displayed.

A valid para-massage establishment license shall be displayed at all times in the para-massage establishment for which it was issued. A valid para-massage license or a combined para-massage establishment/para-massager license must be readily available to be produced immediately if demanded of the licensee.

Section 3. Standards for Denial.

A. Para-Massage Establishment License.

The Board of Selectmen may deny a license for a para-massage establishment if it finds that:

- 1. The applicant does not have a legal right to occupy the premises for which the license is sought;
- 2. The premises, business or activity are not in compliance with other local ordinances;
- 3. The applicant is a corporation that is not registered to do business in the State;
- 4. Any principal officer of the corporation or any person having an actual ownership interest or management authority therein, or the applicant, if other than a corporation, has a disqualifying criminal conviction within the immediately preceding five (5) years.

B. Para-Massager, Combined Para-Massage Establishment/Para-Massager.

The Board of Selectmen may deny a license for a para-massager or combined para-massage establishment/para-massager for the following reasons:

- 1. The applicant had a disqualifying criminal conviction at any time during the five (5) years

immediately preceding application; or

2. The applicant who 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. In addition to the grounds for denial as set forth in Article II, Section 3, A & B, any license may be suspended or revoked upon a determination that the licensee:
 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 Raymond.
- B. Para-Massage Establishment or Combined Para-Massage Establishment/Para-Massager License.

In addition to the provisions of Article II Subsection 4, a para-massage establishment license or combined para-massage establishment/para-massager license may be suspended or revoked upon a determination that the licensee:

1. Permitted any person to perform para-massage without a valid license to do so;
2. Permitted or allowed an employee or para-massager to violate any provision of this Ordinance on the premises of the para-massage establishment or in the course of conduct of the business of the para-massage establishment; or
3. Knowingly permitted any violation of Title 17-A M.R.S.A. Sections 851 through 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 known of any subsequent offense.

Section 5. Application for Para-Massage Establishment, Combined Para-Massage Establishment/Para-Massage Therapist, and Para-Massage Therapist Licenses.

Any person 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 para-massage establishment/para-massage therapist license or for a para-massage therapist's

license shall be accompanied by two (2) front face photographs of the applicant taken within thirty (30) days of the application, of such size as the Clerk may specify.

Section 6. Obtaining License by Fraud.

- A. No person shall make any false, untruthful or fraudulent statement, 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, every use 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 7. 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 8. Existing Therapists and Massage Establishments.

- A. Any person presently operating as a para-massage therapist and/or operating a para-massage establishment in Raymond on the effective date of this Ordinance shall comply with the terms of this Ordinance by obtaining a license within sixty (60) days of the effective date.

Section 9. 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, subsection or portion of this Ordinance.

Section 10. Penalty.

The violation of any provision of this Ordinance shall be a civil violation punished by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00) for each offense. Each act of violation and every day upon which any such violation shall occur 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 11. 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 December 31st.

Section 12. Application Fees.

The following fees shall be established for the licenses issued under this Ordinance:

Para-Massage Establishment License	\$50.00
Para-Massager License	\$25.00
Combined Para-Massage Establishment/Para-Massager License	\$30.00

The foregoing fees are payable at the time of application and are non-refundable.

Section 13. Applicability to Pending Applications.

Notwithstanding anything to the contrary in 1 M.R.S.A. §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 Raymond or to any of its officers or employees.