

ORDINANCE 2016-67

**ADOPTING CHAPTER 727 OF THE CODIFIED ORDINANCES OF  
THE CITY OF MASON RELATING TO MASSAGE  
ESTABLISHMENTS AND DECLARING AN EMERGENCY**

WHEREAS, City Council has determined that in other communities where illicit massage establishments and similar types of businesses currently exist in the State of Ohio, there have been incidents of increased crime, prostitution, human trafficking, and related public safety violations; and

WHEREAS, City Council further finds that the enactment of this ordinance to regulate massage establishments is a substantial government interest for the City in preserving the quality of life and that it is in the interest of the health, safety, morals, and general welfare of the citizens of Mason.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Mason, Ohio, seven members elected thereto concurring:


Section 1. That Chapter 727 of the Mason Codified Ordinances shall be adopted to read as provided in Exhibit A, attached hereto and incorporated herein by reference.

Section 2. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of the City of Mason, and shall take effect immediately. The reason for said declaration of emergency is the need to implement the regulations at the earliest possible date in order to preserve the quality of life and the health, safety, and general welfare of the citizens of Mason and to combat the negative secondary effects associated with illicit establishments.

Passed this 13<sup>th</sup> day of June, 2016.

  
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Mayor

Attest:

  
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Clerk of Council

**727.01 POLICY; EXEMPTIONS; DEFINITIONS.**

**727.02 PERMIT AND LICENSE REQUIREMENTS; PROHIBITED CONDUCT.**

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**727.01 POLICY; EXEMPTIONS; DEFINITIONS.**

(a) **POLICY.** It is hereby declared that the business of operating massage establishments as defined herein is a business affecting the public health, safety, and general welfare.

(b) **EXEMPTIONS.** The provisions of this chapter shall not apply to the following:

(1) Hospitals, nursing homes and public health centers;

(2) A person licensed or registered by the State of Ohio Medical Board while performing his/her licensed or registered profession;

(3) A licensed chiropractor, licensed podiatrist, licensed nurse, or any other licensed health professional;

(4) A person working under the direct supervision of individuals or establishments mentioned in this subsection (b) while performing his/her licensed or registered profession;

As used in this subsection (b) "licensed" means licensed, certified, or registered to practice in the State

of Ohio.

(c) **DEFINITIONS.** For the purpose of this chapter, the following words are defined and shall have the meaning ascribed to them as hereafter set forth:

(1) "Massage" means any method of exerting pressure on, stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external soft tissue of the body with the hands, or with the aid of any mechanical or electrical apparatus or appliance in exchange for anything of value.

(2) "Massage establishment" means any fixed place of business where a person offers massages:

(A) In exchange for anything of value; or

(B) In connection with the provisions of another legitimate service.

(3) "Masseur" or "masseuse" means any individual who performs massages at a massage establishment in exchange for anything of value.

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

(5) "Sexual or genital area" includes the genitalia, pubic area, anus, perineum of any person, and the breasts of a female.

(6) "License" or "permit" means and refers to persons and business operations acting in compliance with Massage Establishment regulations pursuant to 727.03; and also means and refers to persons acting in compliance with Masseur or Masseuse regulations pursuant to 727.06.

#### **727.02 LICENSE REQUIREMENTS; PROHIBITED CONDUCT; EXEMPTIONS.**

(a) The City Manager of the City of Mason is authorized and empowered, and it shall be part of his/her duties, to administer the provisions of this chapter, including the issuance, denial, suspension and revocation of all permits and licenses provided for in this chapter. The Safety Director may act as the Manager's designated agent for such purposes as set forth in the preceding sentence.

(b) No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on in the City of Mason, the operation of a massage establishment without first having obtained an annual license therefor from the City of Mason as provided in Section 727.03.

(c) No person that has obtained a massage establishment license pursuant to Section 727.03 shall allow any massages to occur on the premises or otherwise employ any person to act as a masseur or masseuse at the licensed premises unless the person has obtained a license pursuant to Section 727.06.

(d) No person shall act as a masseur or masseuse for or at a massage establishment located in the City of Mason without first having obtained a license therefor from the City of Mason as provided in Section 727.06.

(e) No person, having obtained a license pursuant to Section 727.06, shall act as a masseur or masseuse at any location other than a massage establishment licensed pursuant to Section 727.03.

(f) No masseur or masseuse governed by this Chapter shall accept or continue employment or perform

services at a massage establishment within the City of Mason that does not then have a current valid massage establishment permit issued by the City of Mason.

(g) No person, as owner or operator of a massage establishment, or any other person in management or control of such premises, governed by this Chapter shall knowingly do any of the following at, upon or within that massage establishment:

- (1) Employ, hire or make use of a masseur or masseuse not licensed therefor in accordance with this chapter;
- (2) Employ, hire or make use of a masseur, masseuse or other person who is being coerced or forced to act as a masseur, masseuse or worker against that individual's will and volition;
- (3) Employ, hire or make use of any person less than twenty-one years of age.

(h) No person as a masseur or masseuse in a massage establishment governed by this Chapter and located in the City of Mason shall knowingly do any of the following at, upon or within that massage establishment:

- (1) Place his or her hand upon, touch with any part of his or her body, fondle in any manner, or massage the sexual or genital area of any other person;
- (2) Perform, offer, or agree to perform any act which would require the touching of the sexual or genital area of any other person;
- (3) Touch, offer or agree to touch the sexual or genital area of any other person with any mechanical or electrical apparatus or appliance;
- (4) Wear unclean clothing, no clothing, transparent clothing, or clothing that otherwise reveals the sexual or genital areas of the masseur or masseuse;
- (5) Uncover or allow the sexual or genital area of any other person to be uncovered while providing a massage;
- (6) Perform, offer or agree to perform a massage with or without compensation to any individual less than eighteen years of age.

### **727.03 APPLICATION FOR MASSAGE ESTABLISHMENT PERMIT; EXPIRATION AND CONTENTS.**

(a) A person desiring to operate a massage establishment within the City of Mason shall first make application to the City of Mason upon the forms prescribed by the City therefor. An annual application, due not later than December 31<sup>st</sup> of each year, and fee payment shall be made at the City of Mason, 6000 Mason-Montgomery Road, Mason, Ohio. Each such application shall include a filing fee of \$250.00 which shall be nonrefundable. Each application must be completed in its entirety upon being filed with the City. The completed application shall include the following information:

- (1) The proposed location of the massage establishment;
- (2) The full name and address of any person applying for the permit, including any partner or limited partner of a partnership applicant, any officer or director of a corporate applicant, and any stockholder holding more than two percent of the stock of a corporate applicant, the date of birth and Social Security

number of each individual, and the federal identification number of any business entity;

(3) Written authorization for an investigation into the criminal record of any person applying for a permit, specifically that all persons consent to criminal background checks by original signature on forms supplied by the City of Mason and remit the processing costs therefore; and fingerprinting and three photographs obtained from a law enforcement agency of the City of Mason's choosing of any person applying for a permit;

(4) A printed form, signed by each and every owner of the parcel of real property which is the proposed location of the massage establishment, whereby each such owner certifies that he/she/it understands and acknowledges that a massage establishment will be located on said parcel of real property;

(5) Written application for building and/or zoning occupancy permit for inspection of premises by Building and/or Fire officials to evaluate premises for compliance with state and local laws governing health, safety and welfare, as well as for the facilities specifically required by the Chapter, together with written authorization for an entry upon the premises for purposes of such investigation, specifically that all persons consent to right of entry by original signature on forms supplied by the City of Mason and remit the processing costs therefore;

(6) The full name, residence address, date of birth, and Social Security number of each proposed worker, masseur and masseuse to be employed, hired or used by the applicant of the massage establishment;

(7) The applicant shall additionally file with the City of Mason within ten working days after the occurrence, any change in the employees, masseurs and/or masseuses employed, hired or used by the applicant at the massage establishment.

(b) Upon the filing of the application called for by this section, a representative of the City shall provide to the applicant a copy of this chapter and all the necessary information and forms concerning massage establishments and shall obtain a signed acknowledgment from the applicant acknowledging receipt thereof.

(c) Upon the filing of the application called for by this section, the City of Mason shall have an investigation conducted into the information contained on the application and shall request the appropriate City of Mason departments / divisions to conduct an inspection of the proposed massage establishment in order to insure that it complies with the requirements of this chapter. The inspection shall take place during regular business hours. The Safety Director shall request a health and safety report of an inspection of the premises in question performed not later than ten (10) days after the City's receipt of the application packet is required. This inspection will involve applicable health, safety, building and fire prevention codes, and will be conducted by the appropriate state or local authorities. These authorities shall certify whether the proposed massage establishment complies with all the requirements of this chapter and specifically address the following requirement:

(1) Construction of rooms used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproof materials and shall be installed in accordance with the building codes of the City of Mason;

(2) All massage tables, bathtubs, shower stalls and steam or bath areas and floors shall have surfaces which may be readily disinfected;

(3) Adequate bathing, dressing and locker facilities shall be provided for the number of patrons to be served at any given time. In the event male and female patrons are to be served simultaneously, separate bathing, dressing, locker and massage room facilities shall be provided;

(4) The premises at all times shall have adequate equipment for disinfection and sterilizing non-disposable instruments and materials used in the administering of a massage. Such non-disposable instruments and materials shall be disinfected after use on each patron;

(5) Closed cabinets shall be provided and used at all times for the storage of linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage area;

(6) Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each sex;

(7) Lavatories or wash basins provided with both hot and cold running water at all times shall be installed in either the toilet room or a vestibule immediately adjacent thereto. Lavatories or wash basins shall be provided with soap and a dispenser and with single-use sanitary towels at all times;

(8) The premises shall be equipped with a service sink for custodial services at all times;

(9) The premises shall meet the requirements of all applicable building codes, safety codes, health codes and fire prevention codes;

(10) Price rates for all services shall be displayed at all times in a conspicuous place open to the public within the massage establishment.

(11) No massage establishment shall be located within one thousand (1,000) feet of any church, school or public playground. For the purpose of this subsection (f), the word "school" means any school operated by a board of education, any community school established under Chapter 3314 of the Ohio Revised Code, or any nonpublic school for which the State Board of Education prescribes minimum standards under Section 3301.07 of the Ohio Revised Code.

(12) A massage establishment license shall not be granted for a location which is within 2 miles of any other licensed location. At no time shall there be more than two (2) permits to operate a massage establishment issued and in force and effect in the City of Mason.

(d) An initial permit issued under this section shall expire on December 31<sup>st</sup> of the year in which it was issued, except that no massage establishment shall be required to discontinue business because of the failure of the City to act on a renewal application filed in a timely manner and pending before the City on the expiration date of said initial permit. Each initial permit shall contain the name of the applicant, the address of the massage establishment, and the expiration date of the permit.

(e) An initial massage establishment permit may be renewed on an annual basis. In order to do so, the applicant shall first file a renewal application with the City of Mason upon the forms prescribed by the City

therefor. Application and fee payment shall be made at the City of Mason, 6000 Mason-Montgomery Road, Mason, Ohio. Each renewal application shall include an annual renewal filing fee of two hundred fifty dollars (\$250.00) which shall be non-refundable. Each renewal application must be completed in its entirety upon being filed with the City of Mason. Each renewal application shall be made to the City of Mason at least thirty days prior to the expiration of the permit sought to be renewed.

#### **727.04 DENIAL OF PERMIT.**

Any application for an initial permit or a renewed permit sought pursuant to Section 727.03 of this chapter shall be denied for any of the following reasons:

- (a) Falsification of any of the information required for the application or failure to fully complete the application;
- (b) Failure to pass inspection for any required health, safety, building or fire prevention requirement or refusal to allow for inspection;
- (c) Any one of the persons named on the application is not of proper age;
- (d) Any one of the persons named on the application, or any other person who has been, or will be, directly or indirectly engaged in the management or operation of the massage establishment, has been convicted of or pleaded guilty to any crime, anywhere, involving dishonesty, fraud or deceit, within five years preceding the date of the filing of the application;
- (e) Any one of the persons named on the application, or any other person who has been, or will be, directly or indirectly engaged in the management or operation of the massage establishment, has been convicted of or pleaded guilty to any violation of Ohio R.C. Chapter 2907, or violation of any statute, law, regulation or ordinance in Ohio or elsewhere that is substantially equivalent to any offense contained in Ohio R.C. Chapter 2907, within five years preceding the date of the filing of the application;
- (f) Any masseur or masseuse employed, working or performing services at the massage establishment has been convicted of or pleaded guilty to a violation of division (D) of Ohio R.C. 503.42;
- (g) Any one of the persons named on the application, or any other person who has been, or will be, directly or indirectly engaged in the management or operation of the massage establishment, has been convicted of or pleaded guilty to any violation of this chapter, or violation of any statute, law, regulation or ordinance in Ohio or elsewhere that is substantially equivalent to any offense contained within this chapter, within five years preceding the date of the filing of the application;
- (h) Any masseur or masseuse employed, working or performing services at the massage establishment has been convicted of or pleaded guilty to any violation of this chapter, or violation of any statute, law, regulation or ordinance in Ohio or elsewhere that is substantially equivalent to any offense contained within this chapter, within five years preceding the application;
- (i) That the operation of the massage establishment as proposed by the applicant will not comply with all applicable laws and codes of the City of Mason;
- (j) That the issuance of the permit would exceed the maximum number of massage establishment permits authorized to be issued and in force and effect pursuant to this chapter;

(k) Any one of the persons named on the application, or any other person who has been, or will be, directly or indirectly engaged in the management or operation of the massage establishment, has employed, hired or made use of a masseur, masseuse or other person who was coerced or forced to act as a masseur, masseuse or other worker against that individual's will and volition.

#### **727.05 SUSPENSION OR REVOCATION OF PERMIT.**

An initial or renewed massage establishment permit shall be suspended or revoked for any of the following reasons:

- (a) Falsification of any of the information required for the application for the permit, or failure to fully complete such application;
- (b) Failure to pass inspection for any required health, safety, building or fire prevention requirement or refusal to allow for inspection;
- (c) Since the issuance of the permit any one of the persons named on the application therefor, or any other person who has been directly or indirectly engaged in the management or operation of the massage establishment, has been convicted of or pleaded guilty to any crime, anywhere, involving dishonesty, fraud or deceit;
- (d) Since the issuance of the permit any one of the persons named on the application therefor, or any other person who has been directly or indirectly engaged in the management or operation of the massage establishment, has been convicted of or pleaded guilty to any violation of Ohio R.C. Chapter 2907, or violation of any statute, law, regulation or ordinance in Ohio or elsewhere that is substantially equivalent to any offense contained in Ohio R.C. Chapter 2907;
- (e) Since the issuance of the permit any masseur or masseuse employed, working or performing services at the massage establishment has been convicted of or pleaded guilty to a violation of division (D) of Ohio R.C. 503.42;
- (f) Since the issuance of the permit any one of the persons named on the application therefor, or any other person who has been directly or indirectly engaged in the management or operation of the massage establishment, has been convicted of or pleaded guilty to any violation of this chapter, or violation of any statute, law, regulation or ordinance in Ohio or elsewhere that is substantially equivalent to any offense contained within this chapter;
- (g) Since the issuance of the permit any masseur or masseuse employed, working or performing services at the massage establishment has been convicted of or pleaded guilty to any violation of this chapter, or violation of any statute, law, regulation or ordinance in Ohio or elsewhere that is substantially equivalent to any offense contained within this chapter;
- (h) Since the issuance of the permit the operation of the massage establishment has not complied with all applicable laws and codes of the City of Mason;
- (i) Since the issuance of the permit any one of the persons named on the application, or any other person who was directly or indirectly engaged in the management or operation of the massage establishment, employed, hired or made use of a masseur, masseuse or other person who was coerced or



forced to act as a masseur, masseuse or other worker against that individual's will and volition.

(j) Any violation of this section shall be cause for the suspension of the permit for not more than thirty (30) days in the first instance. Any subsequent violation of this section shall be cause for additional suspension or revocation of the permit. Before suspending or revoking any permit pursuant to this section, the permit holder shall be given at least ten (10) days written notice of the charges against the permit holder and the opportunity for a public hearing thereon before the Manager of the City of Mason or the Safety Director if acting as the Manager's designated agent therefor.

#### **727.06 APPLICATION FOR MASSEUR OR MASSEUSE LICENSE; EXPIRATION AND CONTENTS.**

(a) Any individual desiring to perform services as a masseur or masseuse within the City of Mason shall first make application to the City of Mason upon the forms prescribed by the City therefor. Application and fee payment shall be made at the City of Mason, 6000 Mason-Montgomery Road, Mason, Ohio. Each such application shall include a filing fee of \$250.00 which shall be nonrefundable. Each application must be completed in its entirety upon being filed with the City of Mason. The completed application shall include the following information:

(1) The results of a physical examination performed by a licensed physician within thirty days of the application certifying that the applicant is free from contagious or communicable diseases;

(2) The full name, date of birth, weight, height, color of hair and eyes, present address, how long at present address, and Social Security number of the applicant, and the last previous employer of the applicant;

(3) Written authorization for an investigation into the criminal record of the individual applying for the license, which will require the applicant to make an appointment with a law enforcement agency of the City of Mason's choosing to be photographed and fingerprinted for the background investigation;

(4) That the applicant is at least twenty-one years of age and proper proof thereof (i.e. a certified birth certificate, driver's license, passport or state identification);

(5) The applicant's immigration and work authorization status and proper proof thereof;

(6) Any other information determined by the City of Mason to be necessary.

(b) Upon the filing of the application called for by this section, a representative of the City shall provide to the applicant a copy of this chapter and all necessary information and forms concerning masseurs or masseuses and shall obtain a signed acknowledgment from the applicant acknowledging receipt thereof.

(c) Upon the filing of the application called for by this section, the City of Mason shall have an investigation conducted on the information contained on the application.

(d) An initial license issued under this section to a masseur or masseuse shall expire one year after the date of issuance of same, except that no masseur or masseuse shall be required to discontinue performing massages because of the failure of the City to act on a renewal application filed in a timely manner and pending before the City on the expiration date of said initial license.

(1) Each license shall contain the full name of the licensee, a color photograph and a brief

description of the licensee and the expiration date of the license. The license shall be in the form prescribed by the City.

(2) An initial masseur or masseuse license may be renewed on an annual basis. In order to do so, the applicant shall first file a renewal application with the City of Mason upon the forms prescribed by the City therefor. Application and fee payment shall be made at the City of Mason 6000 Mason-Montgomery Road, Mason, Ohio. Each renewal application shall include an annual renewal filing fee of \$250.00 which shall be non-refundable. Each renewal application must be completed in its entirety upon filing with the City of Mason. Each renewal application shall be made to the City of Mason at least twenty days prior to the expiration of the license sought to be renewed. The applicant shall include with the renewal application: the results of a physical examination performed by a licensed physician within thirty days of the renewal application certifying that the applicant is free from contagious or communicable diseases; and any other relevant documentation and proof.

#### **727.07 DENIAL OF MASSEUR OR MASSEUSE LICENSE.**

Any application for an initial license or a renewed license sought pursuant to Section 727.06 of this chapter shall be denied for any of the following reasons:

- (a) Falsification of any of the information required for the application, or failure to fully complete the application;
- (b) The applicant is under twenty-one years of age;
- (c) The applicant has been convicted of or pleaded guilty to any violation of Ohio R.C. Chapter 2907, or violation of any statute, law, regulation or ordinance in Ohio or elsewhere that is substantially equivalent to any offense contained in Ohio R.C. Chapter 2907, within five years preceding the date of the filing of the application;
- (d) The applicant has been convicted of or pleaded guilty to a violation of division (D) of Ohio R.C. 503.42;
- (e) The applicant has been convicted of or pleaded guilty to any violation of this chapter, or violation of any statute, law, regulation or ordinance in Ohio or elsewhere that is substantially equivalent to any offense contained within this chapter, within five years preceding the date of the filing of the application.
- (f) The applicant has been convicted of or pleaded guilty to any crime, anywhere, involving dishonesty, fraud or deceit, within five years preceding the date of the filing of the application.
- (g) The applicant is not authorized to be in the United States of America and working.
- (h) The applicant fails to meet or comply with any required qualification or condition.

#### **727.08 REVOCATION OF LICENSE.**

An initial or renewed masseur or masseuse license shall be revoked for any of the following reasons:

- (a) Falsification of any of the information required for the application for the license, or failure to fully complete the application;

- (b) Since the issuance of the license the applicant has been convicted of or pleaded guilty to any violation of Ohio R.C. Chapter 2907, or violation of any statute, law, regulation or ordinance in Ohio or elsewhere that is substantially equivalent to any offense contained in Ohio R.C. Chapter 2907;
- (c) Since the issuance of the license the applicant has been convicted of or pleaded guilty to any crime, anywhere, involving dishonesty, fraud or deceit;
- (d) Since the issuance of the license the applicant has been convicted of or pleaded guilty to a violation of division (D) of Ohio R.C. 503.42;
- (e) Since the issuance of the license the applicant has been convicted of or pleaded guilty to any violation of this chapter, or violation of any statute, law, regulation or ordinance in Ohio or elsewhere that is substantially equivalent to any offense contained within this chapter;
- (f) Since the issuance of the license the applicant has lost his or her authorization to be in the United States of America and working.

Before revoking any license pursuant to this section, the license holder shall be given at least ten (10) days written notice of the charges against the license holder. The written notice shall be hand delivered to the licensed premises and mailed via regular U.S. mail to the address appearing on the license application and shall be deemed served upon mailing.

**727.09 DISPLAY OF PERMIT OR LICENSE; INSPECTIONS; CLIENT IDENTIFICATION AND RECORD.**

- (a) Each massage establishment permit holder shall display at all times, and in a conspicuous place open to the public within the massage establishment, his/her/its current permit so that the same may be readily seen by persons upon entering the premises.
- (b) Each masseur or masseuse shall display at all times, and in a conspicuous place open to the public within the massage establishment, his or her current license so that the same may be readily seen by persons upon entering the premises.
- (c) The Safety Director, or his/her representatives, shall, from time to time, make an inspection of each massage establishment granted a permit for the purpose of determining that the provisions of this chapter and other applicable laws and regulations are being complied with. Such inspections shall be made at reasonable times and in a reasonable manner, during regular business hours. No permit holder shall fail to allow such inspection officer or official access to the premises or hinder such officer or official in any manner.
- (d) Other operating requirements.
  - (1) Every portion of a massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition at all times.
  - (2) All massage establishments shall be provided at all times with clean, laundered sheets and towels in sufficient quantity, and the sheets and towels shall be laundered after each use thereof and stored in a sanitary manner.

(3) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms, and other physical facilities of a massage establishment shall be in good repair and maintained in a clean and sanitary condition at all times. Wet and dry heat rooms, steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned and disinfected each day the business is in operation. Bathtubs and showers shall be thoroughly cleaned and disinfected after each use. When carpeting is used on the floors, it shall be kept dry at all times.

(4) Oils, creams, lotions or other preparations used in administering massages in massage establishments shall be kept in clean closed containers or cabinets.

(5) Eating in the massage work area of any massage establishment is not permitted. Animals shall not be permitted in the massage work area of any massage establishment at any time.

(6) Each masseur and masseuse shall wash his or her hands in hot running water, using a proper soap or disinfectant, before administering a massage to any person.

(7) A masseur or masseuse at a massage establishment licensed hereunder shall, before agreeing to provide a massage, first request photo identification in the form of a state issued identification card, a state issued driver's license or any other form of government issued photo identification that provides the name, address and date of birth of the person seeking to obtain a massage. The masseur or masseuse shall create a paper copy of the identification so provided and shall further record the name, address, date of birth and telephone number of the person seeking the massage in a log to be maintained on the premises. A masseur or masseuse shall not provide any massage to a person seeking a massage at a massage establishment if that person fails or refuses, for any reason, to present the photo identification required herein.

(8) No massage establishment shall be or remain open for business, operate or provide massages at any time between 12:00 midnight and 6:00 a.m. on any day. No person shall allow a massage establishment to be open or to remain open for business, to operate or to provide massages at any time between 12:00 midnight and 6:00 a.m. on any day.

#### **727.10 TRANSFER OF PERMITS OR LICENSES.**

(a) No massage establishment permit or masseur or masseuse license shall be assignable or transferable to another person or another location.

(b) The change of location of a massage establishment shall require the submission of a new application and the issuance of a new permit therefor.

#### **727.11 HEARINGS; RECORDS; APPEALS.**

(a) Neither the Manager nor any other proper official need hold any hearing in connection with the denial of a permit to operate a massage establishment or a masseur or masseuse license. The City shall maintain a complete record of any decision made pursuant to this chapter.

(b) Any denial, suspension or revocation issued pursuant to this chapter shall be in writing and mailed to the address appearing on the application via regular U.S. mail. It shall be deemed served upon mailing.

(c) Any denial, suspension or revocation of a license issued under this section may be appealed to the

City Council by written notice within ten (10) days of the date of mailing of such notice of denial, suspension or revocation. Unless the applicant requests a longer period, the Council must hold a hearing on the appeal within fourteen (14) days and must issue a decision affirming or reversing the denial or revocation within five (5) days after the hearing. During the time between the date of the denial, suspension or revocation of a license and the date of the City Council decision affirming or reversing the denial, suspension or revocation, the decision shall remain in full force and effect. The City and the applicant may present witnesses and evidence in favor of upholding or reversing the decision to deny the applicant a license.

(d) In the event that the Council upholds a denial, suspension or revocation of a license under this section, the applicant may pursue an appeal to the Warren County Court of Common Pleas pursuant to Ohio R.C. Chapter 2506. The failure of the Council to render a decision on the appeal within the time prescribed in subsection (a) above shall be considered an affirmance of the denial or revocation of the license and the applicant may pursue an appeal to the Warren County Court of Common Pleas pursuant to Ohio R.C. Chapter 2506.

#### **727.12 DEPOSIT OF FEES.**

The City of Mason shall deposit the fees collected by the City for massage establishment permits and masseur and masseuse licenses into the City's General Fund, and first use the fees for the cost of administering and enforcing this chapter.

#### **727.13 SEVERABLE.**

If any provision of a section of Chapter 727 or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of the section or related sections which can be given effect without the invalid provision or application, and to this end the provisions are severable.

#### **727.99 PENALTY.**

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree. Each and every separate violation as well as each and every date of violation shall constitute a separate offense, subject to per diem penalty as may be imposed in the sound discretion of the Court.