

# WEST VIRGINIA CODE: §7-1-3Z

## §7-1-3z. Authority of counties to govern business of massage.

(a) In addition to all other powers and duties now conferred by law upon county commissions, county commissions, may by order duly entered of record, adopt an ordinance which provides for the licensing for the regulation of the business of massage when carried on within the county. The ordinances may be adopted either for the entire county, or for any portion or portions of the county which may constitute an effective area or areas for those purposes, without the necessity of adopting the ordinances for any other portion of the county. Notwithstanding any other provision of this section to the contrary, no ordinance shall apply to or affect any territory within the boundaries of any municipal corporation which has adopted and has in effect an ordinance which provides for the regulation of the business of massage, unless and until the municipal corporation provides for the regulation of the business of massage by ordinance.

(b) The ordinance may condition the issuance of a license to engage in the business of massage upon proof that a massage business meets the reasonable standards set by the ordinance, which may include, but need not be limited to, the following areas:

(1) Requirement that massage personnel be at least eighteen years of age;

(2) Sanitary conditions of the massage establishment;

(3) Hours of operation of the massage business; and

(4) Prohibition of the sale or serving of food or beverage or the conducting of nonmassage business on the premises of the massage business. In the event that the business premises in which the massage business is conducted has separate quarters used for purposes other than the massage business, the prohibition of this subsection applies only to the portion of the premises exclusively devoted to the conduct of the massage business.

(c) The ordinance may also provide that a license to engage in the business of massage may be denied upon a showing by the licensing authority of any of the following:

(1) Proof that the massage personnel or the owners or operators of a massage business have been convicted of a violation of any of the provisions of article eight, eight-a, eight-b or eight-c, chapter sixty-one of this code or proof that massage personnel or the owners or operators of a massage business have been convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one of the offenses set forth in this subsection;

(2) Proof that the massage personnel, or the owners, or operators of a massage business have been convicted of any felony offense involving the sale of a controlled substance

specified in section two hundred four, two hundred six, two hundred eight, two hundred ten or two hundred twelve, article two, chapter sixty-a of this code or proof that the massage personnel or the owners or operators of the massage business have been convicted in any other state of any offense, which if committed or attempted in this state, would have been punishable as one or more of the offenses set forth in this subsection.

(d) The ordinance may require that application to conduct the business of massage be made on a form prescribed by the licensing authority, which may require the following information:

- (1) The name of the applicant;
- (2) If the applicant is an unincorporated association, the names and addresses of the members of its governing board;
- (3) If the applicant is a corporation, the names and addresses of its officers and directors;
- (4) The place at which the applicant will conduct its operations and whether that place is owned or leased by the applicant;
- (5) The name of the owner of the place at which the applicant will conduct its operation, if not the same as the applicant;
- (6) The number of members of the applicant;
- (7) The names of all massage personnel, owners, operators or other employees of the massage business;
- (8) Any other information as the licensing authority may reasonably require which may include, but need not be limited to, the criminal records, if any, of each member of the applicant's governing board and/or its officers and directors, or any of the massage personnel, owners, operators or other employees of the massage business who have been convicted of any violation of any of the provisions set forth in subsection (c) of this section.

The ordinance may require that the application be verified by the applicant or by each member of the governing board of the applicant if an unincorporated association or, if the applicant is a corporation, by each of its officers and all members of its board of directors. The ordinance may also require that the application be accompanied by a license fee not exceeding the sum of \$100. Any license issued under the provisions of this section is effective for one year and may be renewed upon the same showing as required for the issuance of the initial license, together with the payment of fees, if any. The ordinance may require license holders to notify the licensing authority of any changes in the information required by the application within a reasonable period after the changes occurred.

(e) This section does not apply to barbers or beauticians licensed to practice, or to persons licensed to practice in any of the health professions, or to persons licensed to practice as

massage therapists, under the provisions of chapter thirty of this code when engaging in the practice within the scope of his or her license.

(f) Nothing contained in this chapter precludes a county commission from prohibiting a person of one sex from engaging in the massage of a person of the other sex.

WV Legislature