

TOWN COUNCIL MAJORITY OFFICE

ORDINANCE COMMITTEE

September 14, 2015

PRESENT Rich Kehoe, Chair, Councillors Bill Horan and Esther Clarke

ALSO Marcia Leclerc, Mayor
PRESENT Rich Gentile, Assistant Corporation Counsel
Beau Thurnauer, Deputy Police Chief
Mack Hawkins, Deputy Police Chief
Jim Cordier, Health Department Director
Mike O'Connell, Health Department Supervisor
Frank and Janice Mastropasqua, 42 Hills Street

CALL TO ORDER

Chair Kehoe called the meeting to order at 4:08 p.m.

APPROVAL OF MINUTES

July 28, 2015 Meeting

MOTION By Esther Clarke
seconded by Bill Horan
to **approve** the July 28, 2015 Ordinance meeting minutes.
Motion carried 3/0.

OPPORTUNITY FOR RESIDENTS TO SPEAK

None

OLD BUSINESS

Section 6-5, Swine and Poultry

The Committee reviewed the September 11th draft of the hen ordinance which will allow for residents to have limited numbers of egg-laying hens subject to restrictions that will insure that the keeping of these hens is not noticeable by their neighbors. The restrictions include:

1. Minimum ¼ acre of land to ½ acre of land for the keeping of up to 3 hens
2. From ½ acre to 2 acres for the keeping of up to 6 hens
3. From 2 acres of land and over for the keeping of up to 12 hens
4. The coop must be well-maintained to prevent any rodents and predators from getting at the hens

5. The coop must not be visible to the neighboring property owners that about the property as well as from the street line
6. The coop must be kept in a sanitary condition

After discussion the September 11th draft was amended to insure that there is a process for applying to the Department of Health for the license and to insure that these provisions are also under the enforcement section for the Department of Health.

Mr. and Mrs. Mastropasqua were concerned about the impact this ordinance would have on the neighborhood if the hens were not maintained correctly – excess flies and odors especially. The ordinance, as drafted, would insure that that is a condition the town would not permit.

MOTION By Bill Horan
 seconded by Esther Clarke
 to **send** the September 14th draft of the swine and poultry
 ordinance to the Town Council for the purposes of setting
 a public hearing date.
 Motion carried 3/0.

KEEPING OF EGG-LAYING HENS (9/14/15 DRAFT)

Section 6-5 of the East Hartford Code of Ordinances is repealed and the following is substituted in lieu thereof:

- (a) No person shall keep swine or poultry within two hundred and seventy [(270)] feet of either the street line, or of any dwelling house or public building or within fifty [(50)] feet of a lot line.
- (b) Notwithstanding the provisions of subsection (a), a person may keep no more than three hens on a property not less than one quarter acre and not greater than one acre, and keep no more than six hens on a property of more than one acre but not greater than two acres and keep no more than twelve hens on property of more than two acres provided: (1) the hens are kept in a soundly fenced enclosure in the property's rear yard which area is located not less than twenty feet from the abutting property lines; (2) the fenced enclosure contains a well-maintained coop less than fifteen feet in height and impermeable to rodents, wild birds and predators including dogs, cats, foxes and coyotes; (3) the enclosure and coop must be clean and odor free and kept in a neat and sanitary condition at all times in a manner that will not disturb the use or enjoyment of abutting properties due to noise, odor or other adverse impact; (4) odors from hens, hen wastes or other hen related substances shall not be perceptible at the property boundaries or the street lines; (5) any portion of the coop visible from another lot or property or a street line shall be screened by a fence or plantings sufficient to block any sight of the coop from the other lot, property or street line; (6) the hens are used for personal use only; (7) no roosters are kept on such property; and (8) the keeping of such hens shall not create any other type of nuisance to abutting property owners or the general public.

Sections 6-8 and 6-10 of the East Hartford Code of Ordinances are amended to read as follows:

Sec. 6-8. License Required to Raise Animals or Poultry.

- (a) Any person engaged in raising or breeding poultry, pigeons, rabbits, hares or guinea pigs for commercial purposes, or keeping hens pursuant to section 6-5, shall obtain a

license from the Director of Health.

(b) Each application shall state the number and kind of poultry or animal to be raised, or kept, and the location of the premises to be used for that purpose.

Sec. 6-10. Complaint of Unsanitary Conditions

Whenever a complaint is made to the Director of Health that the animals or structures mentioned in Sections 6-5, 6-7, 6-8 and 6-9 are creating unsanitary or obnoxious conditions, the Director of Health shall give notice of a hearing to be held at which the party complained against and the complainant shall be present. If, after hearing, the Director deems the conditions unsanitary, he shall revoke the license of the party complained against.

Any person whose license is revoked pursuant to this Section may appeal such decision to the Mayor, in writing, within ten (10) days after notice of the Director's decision.

Massage Therapy Establishments

The Committee reviewed the September 11th draft of the proposed amendment to the Sexually Oriented Businesses ordinance. Under this draft, massage parlors that are operated by a licensed massage therapist must comply with the requirements of the sexually oriented business ordinance. Most of the requirements were already in place for massage parlor, which included sanitary conditions and the requirement that the massage therapist be certified by the State of Connecticut. The draft makes a number of other changes to delete outdated language, as well as to enhance the enforcement of the ordinance by the Health Department and the Police Department. The goal is to insure that massage parlors in East Hartford fully comply with all health and safety requirements. The town's experience to date has been that a number of these massage parlors, operating as "spas", do not comply with generally accepted standards for health and safety.

MOTION By Esther Clarke
seconded by Bill Horan
to **send** the September 11th draft of the massage therapy establishment ordinance to the Town Council for the purposes of setting a public hearing date.
Motion carried 3/0.

PROPOSED AMENDMENT SEXUALLY ORIENTED BUSINESSES (Draft 9/11/15)

Section 1. Subdivision (8) of section 8-61 of the East Hartford Code of Ordinances is repealed and the following is substituted in lieu thereof:

8. "massage parlor" means any establishment having a fixed business where any person engages in or carries on, or permits to be engaged in or carried on, any method of vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electric apparatus or appliance with or without any supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments or other similar preparations commonly used in this practice, whether or not such business is operated on a house call or out call basis, and any establishment advertised or listed under the heading of "massage," ~~or~~ "massage parlor," spa, or similar wording [title]. Massage parlor shall not include an establishment where the practice of massage is: (A) in any state-licensed hospital, nursing home, clinic, medical office or rehabilitation facility; (B) by a state-licensed physician, surgeon, chiropractor, osteopath, physical therapist-~~or~~

~~massage therapist] or by a registered nurse, or licensed practical nurse, [or technician working under the supervision of such health care provider who shall be present on the licensed premises during the time the service is rendered]; (C) by trainers for any amateur or professional athlete or athletic team or school athletic program; [or] (D) by any state-licensed barber or beautician with regard to the massaging of the neck, face, scalp and hair for cosmetic or beautifying purposes; or (E) by a massage therapist: (i) who has been licensed by the State of Connecticut Department of Public Health to practice Massage Therapy under the provisions of Section 20-206a et seq. of the Connecticut General Statutes as amended, and has completed all testing and educational requirements thereunder; (ii) who holds the masseur permit required pursuant to section 8-73; and (ii) and who works at an establishment that complies in all respects with the provisions of sections 8-72 (1)-(11), 8-78 and 8-79.~~

Section 2. Section 8-72 of the East Hartford Code of Ordinances is repealed and the following is substituted in lieu thereof:

~~Sec. 8-72. [Massage parlors.]~~ Requirements for establishments where massage is performed by massage therapists who meet the requirements of section 8-73, 8-74 and 8-76.

~~[In addition to the requirements for sexually oriented businesses contained in section 8-70,]~~ The following requirements shall apply: [to all massage parlors within the town]:

(1) Construction of rooms used for toilets, tubs, steam baths and showers shall be waterproofed with approved waterproof materials;

(2) Toilet facilities shall be provided in convenient locations. When five or more persons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. Toilets shall be designated as to the sex accommodated therein;

(3) Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels;

(4) Every portion of the ~~[massage parlor]~~ premises, including appliances and apparatus, shall be kept clean and operated in a sanitary condition. Adequate lighting shall be provided, and each room or enclosure where a massage is being administered shall have an illumination of no less than five foot candles as measured at the floor level while such room or enclosure is occupied;

(5) All employees of the massage parlor shall be clean and wear clean outer garments, which use is restricted to the massage parlor. Provisions for a separate dressing room for each sex must be available on the licensed premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing;

(6) All employees ~~[and masseurs]~~ shall be modestly attired. Diaphanous, flimsy, transparent, form-fitting, or tight clothing is prohibited. Clothing must cover the employee's or masseur's chest at all times. Hemlines of skirts, dresses or other attire may be no higher than three inches above the top of the knee;

(7) All sexual anatomical areas of patrons must be covered by towels, cloth or undergarments when in the presence of any employee or masseur. No person in a massage parlor to expose his specified anatomical areas to any other person or for any person to expose the specified anatomical areas of another person;

(8) No person shall ~~[in a massage parlor to]~~ engage in any sexual activity or to place his hand upon, to touch with any part of his body, to fondle in any manner, or to massage any sexual anatomical areas of any other person;

(9) ~~[All massage parlors]~~ The premises shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in an approved sanitary manner;

(10) Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day business is in operation. Bathtubs shall be thoroughly cleaned after each use;

(11) No business ~~[massage parlor]~~ shall place, publish, or distribute or cause to be placed, published, or distributed any advertising material that depicts any portion of the human body or contains any written text that

would reasonably suggest to prospective patrons that any services are available other than those services described in the definition of massage parlor in section 8-61, or that employees or masseurs are dressed in any manner other than described in subdivision (6) of this section;

~~[(12) All services enumerated in the definition of massage parlor in section 8-61 shall be performed in a cubicle, room, booth or area within the massage parlor, which cubicle, room, booth or area shall have transparent doors or walls so that all activity therein shall be visible from outside the same;~~

~~(13) No massage parlor shall open for business before 9:00 a.m. Monday through Sunday, nor remain open after 1:00 a.m.; and~~

~~(14) A full schedule of service rates shall be posted in a prominent place within the massage parlor in such a manner as to come to the attention of all patrons. No charges other than the specified rates for specified services shall be allowed and all patrons shall be notified of the full cost of services prior to the rendering of any service.]~~

Section 3. Section 8-73 of the East Hartford Code of Ordinances is repealed and the following is substituted in lieu thereof:

No massage therapist ~~[person, including an applicant for a massage parlor]~~, shall engage in the practice of massage without first having obtained a masseur permit from the Chief of Police or his designate upon a form provided by the Chief of Police. The applicant shall pay a filing fee, which shall not be refundable, as set by the Council in the Schedule of Fees. ~~[A permit shall not be required of persons whose practice of massage does not fit within the definition of massage parlor as set forth in section 8-61.]~~

Section 4. Section 8-74 of the East Hartford Code of Ordinances is repealed and the following is substituted in lieu thereof:

Sec. 8-74. Masseur Permit Application; Contents~~[-Certificate of Health.]~~

(a) The application for a masseur permit shall contain the following:

- (1) Name, and any other name previously used by such person, and resident's address;
- (2) Social Security Number and date of birth;
- (3) Applicant's weight, height, color of hair and eyes, and fingerprints;
- (4) Written evidence that the applicant is at least eighteen years of age;
- (5) Business, occupation, or employment of the applicant for three years immediately preceding date of application;
- (6) Whether such person has ever been convicted of any crime within the last ten years except minor traffic violations and if so convicted, the place and court in which the conviction was obtained and the sentence imposed as a result of such conviction; and

~~(7). (i) Copy of the license issued by the [State of] Connecticut Department of Public Health to practice Massage Therapy under the provisions of [Chapter 384a,] Section 20-206a et seq. of the Connecticut General Statutes as amended, and evidence that all testing and educational requirements thereunder have been completed; or~~

~~[Name and address of the recognized school attended, the date attended, and a copy of the diploma or certificate of graduation awarded the applicant, showing the applicant has successfully completed not less than seventy hours of instruction.]~~

~~(b) Any masseur so employed is required to present a certificate from a physician licensed to practice in the State of Connecticut stating that the applicant has been examined and found to be free of any contagious or communicable disease and showing that the examination was conducted within thirty days prior to the submission of the application.]~~

Section 5. Section 8-75 of the East Hartford Code of Ordinances is repealed and the following is substituted in lieu thereof:

The Director of Health and Social Services, and Chief of Police, or their designees, shall have the right to periodically inspect establishments where massage therapy is provided to ensure compliance with these requirements. Such inspections shall be made in a reasonable time and in a reasonable manner. No permittee shall fail to allow access when requested, or hinder such officials' access in anyway.
~~Message Parlors Prohibited: Applicability to Masseurs Without Educational Requirements.~~

~~[(a) Applicants for a masseur permit may substitute one year's continuous experience as a Masseur or masseuse in lieu of a requirement of a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method and work of massage is taught. Such masseur must obtain an affidavit attesting to such experience from the owner of the establishment where the continuous year of experience occurred. If, after diligent effort, the masseur is unable to obtain an affidavit from the owner, such masseur may submit an affidavit from a person who has first hand knowledge of his or her continuous year of experience.~~

~~[(b) Qualified instructors in the art of massage shall not be required to obtain a masseur permit unless such instructor engages in the practice of massage.]~~

Section 6. Section 8-76 of the East Hartford Code of Ordinances is repealed and the following is substituted in lieu thereof:

The Chief of Police or his designate shall issue a masseur permit within twenty-one days following application, unless he find that the applicant for the masseur permit has been convicted of: (1) a felony; (2) an offense involving sexual misconduct with minors; or (3) obscenity, keeping or residing in a house of ill fame, solicitation of a lewd or unlawful act, prostitution or pandering. Any applicant who has been denied may appeal such denial in accordance with the procedure~~visions of~~ set forth in section 8-68.

Section 7. Section 8-77 of the East Hartford Code of Ordinances is repealed and the following is substituted in lieu thereof:

(a) A masseur permit issued by the Chief of Police or his designate shall be revoked or suspended after a hearing before the Chief of Police where it appears that the masseur has been convicted of any offense enumerated in section 8-76 or that the establishment where massage therapy is being performed is not compliant with the provisions of section 8-72.

(b) The Chief of Police or his designate, before revoking or suspending any masseur permit, shall give the masseur at least ten days written notice of the examination into his conviction record, or non-compliance with section 8-72, and the opportunity for a hearing before the Chief of Police, at which hearing, the Chief of Police or his designate shall determine the relevant facts regarding the occurrences of the conviction. Any person whose masseur permit has been suspended or revoked may appeal such revocation or suspension in accordance with the procedure set forth in~~provisions of~~ section 8-68.

Section 8. Section 8-79 of the East Hartford Code of Ordinances is repealed and the following is substituted in lieu thereof:

Sec. 8-79. Message Parlors Prohibited~~[Opposite Sex Massage prohibited/Outcall Massage.]~~

Consistent with Section 20-206a et.seq. of the Connecticut General Statutes as amended, Massage parlors, as defined in Section 8-61 (8) hereof, are not permitted.

~~[(a) No person holding a permit under this Article shall treat a person of the opposite sex, except upon the signed order of a licensed physician, osteopath, chiropractor, or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed ten. The date and hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given and shall be subject to inspection by the police.~~

~~[(b) No permittee shall administer massage on an outcall basis. Such person shall administer massage solely with a massage parlor licensed to carry on such business. Any violation of these provisions shall be deemed grounds for revocation of the masseur permit and sexually oriented business license granted hereunder.~~

~~(c) No manager of a massage parlor shall knowingly cause, allow or permit, any agent, employee, or any other person under his control or supervision to perform acts prohibited in subsections (a) and (b) of this section or in the provisions of section 8-72 through section 8-79, inclusive, in or about such massage parlor.]~~

ADJOURNMENT

MOTION By Esther Clarke
 seconded by Bill Horan
 to **adjourn** (4:52 p.m.)
 Motion carried 3/0.

cc: Mayor Leclerc
Town Council
Rich Gentile, Assistant Corporation Counsel
Beau Thurnauer, Deputy Police Chief
Jim Cordier, Health Department Director
Mike O'Connell, Health Department Supervisor
Michelle DeDominicis, 56 Hills Street
Mr. and Mrs. Frank Mastropasqua, 42 Hills Street