

Chapter 15

THERAPEUTIC MASSAGE

3-15-1: DEFINITIONS:

As used in this chapter, the terms defined in this section shall have the following meanings ascribed to them:

APPLICANT: Any person filing an application with the city seeking an individual massage therapist or massage enterprise license pursuant to this chapter.

MASSAGE ENTERPRISE: Operation of a therapeutic massage business or the provision of therapeutic massage services. This includes, but is not limited to, a therapeutic massage business, a therapist that is employed or works under contract or other arrangement at a therapeutic massage business, or self-employed massage therapists.

MASSAGE SERVICES: A business or person offering or providing therapeutic massages to others where a fee is charged directly or indirectly, whether or not the massage services are rendered at the licensed premises.

MASSAGE THERAPIST: A person who practices or administers therapeutic massage.

THERAPEUTIC MASSAGE: The rubbing, stroking, kneading, tapping, or rolling of the body of another with the hands or objects for the exclusive purpose of physical fitness, relaxation, or beautification, and for no other purpose.

THERAPEUTIC MASSAGE BUSINESS: Any establishment or place providing to the public at large therapeutic massage services, other than a hospital, sanatorium, rest home, nursing home, boarding home, or other institution for the hospitalization or care of human beings, duly licensed under the provisions of Minnesota statutes, sections 144.50 through 144.69. (Ord. 1315, 3-18-2014; amd. Ord. 1321, 6-3-2014; Ord. 1381, 3-22-2016)

3-15-2: LICENSE REQUIRED:

Except as provided for by Minnesota statutes section 471.709, no person shall practice, administer or provide massage services to the public, or engage in the business of operating a "massage enterprise" defined in section [3-15-1](#) of this chapter, either exclusively or in connection with any other business enterprise, without first obtaining a license issued by the city. A therapeutic massage enterprise having an establishment or location within the city must meet all of the requirements of [title 10](#) of this code. An applicant having an establishment or location within the city may apply for both an enterprise license and individual massage therapist licenses for its employees, contractors or other persons who provide massage services at the licensed premises. An individual who provides massage services within the city at a location other than a licensed premises must obtain a massage enterprise license. (Ord. 1381, 3-22-2016)

3-15-3: LICENSING REQUIREMENTS:

The city is empowered to conduct any and all investigations to verify the information on new and renewal applications submitted under this section, including ordering a computerized criminal history inquiry and/or a driver's license/identification history inquiry on the applicant. All license applicants shall pass a background check.

(A) Application: An application for a license, including a license renewal, must be made on a form provided by the city and all persons performing massage therapist services for the massage enterprise must be listed on the application. The applicant and all therapists must disclose on the application if they have ever used or been known by a name other than the primary name listed and if so, must provide that name or names and information concerning the dates and places where that name was used. The city manager or designee shall approve the issuance of a license by the city to an applicant within sixty (60) days after receipt of an application unless the manager finds one or more of the following to be true:

1. An applicant is under eighteen (18) years of age.
2. An applicant is overdue in payment to the city of taxes, fees, fines, utility charges or penalties assessed against or imposed upon the applicant in relation to a therapeutic massage business.
3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or failed to provide information on the application form including, but not limited to:
 - a. Photo identification issued by a federal, state or territory of the United States Of America. This includes a valid passport, state issued driver's license or other official form of identification.
 - b. Present current mailing address for applicant. Post office boxes are not acceptable for individual applicants.
 - c. Any other information requested or required to complete the application process.
4. If the application is for a therapeutic massage enterprise having an establishment or location within the city, the premises to be used for the massage enterprise has not been approved by the appropriate city personnel as being in compliance with applicable laws and ordinances.
5. The proposed location of the massage enterprise does not meet all of the requirements of [title 10](#) of this code.
6. The license fee required by this chapter has not been paid.
7. An applicant or any employee, contractor or other person associated with the business or performing massages at the licensed premises or as part of the licensed business:
 - a. Has been convicted of a felony or any sexually oriented crime or ordinance violation, or has been determined to have engaged in any conduct prohibited by Minnesota statutes 146A.08, within five (5) years of the date an application for a license is filed with the city, or
 - b. Has been convicted of a felony and required to register as a predatory offender under Minnesota statutes 243.166 or similar law in Minnesota or elsewhere within ten (10) years, or

- c. Has had a massage therapist license revoked or denied by a state, city or other licensing authority within five (5) years, or
 - d. Is not a United States citizen or cannot provide proof of their eligibility to work in the United States, or
 - e. Has pled guilty to civil penalties imposed by a state, city or other licensing authority within five (5) years.
8. An applicant and all employees or other persons performing massage therapist services at the premises or for the massage enterprise cannot document:
- a. A certificate of board certification for therapeutic massage and body work by the National Certification Board For Therapeutic Massage And Body Work (NCBTMB); or
 - b. A diploma or certificate of graduation showing completion of a program of at least five hundred (500) contact hours of combined massage therapy theory and practice training from an accredited program or institution. If the diploma or certificate is issued from outside the state, it must be a certified or official transcript sent directly from the school or educational institution accompanied by documentation establishing the accreditation;
 - c. That they have previously been licensed or employed as a massage therapist by a licensed massage enterprise in the city. (Ord. 1381, 3-22-2016)
- (B) Applicant: If a person who wishes to operate a "massage enterprise" as described in section [3-15-1](#) of this chapter is an individual, the individual must sign the application for a license as applicant. If an applicant is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under this section and shall be considered a licensee if a license is granted.
- (C) Appeal: The fact that a conviction or license revocation is being appealed shall have no effect on the disqualification of the applicant. (Ord. 1315, 3-18-2014)
- (D) Inspection: No therapeutic massage business shall be granted a license or renewal of a license without passing an inspection for compliance with this chapter. (Ord. 1381, 3-22-2016)
- (E) Minors: No person shall give, or assist in the giving, of any massage to any person under the age of eighteen (18) years, unless the parent or guardian of such minor person has consented thereto in writing. (Ord. 1315, 3-18-2014)
- (F) List Of Services: The operator of the massage enterprise or the responsible employee shall post or provide to the person receiving the massage a list of services available and the cost of each. No applicant or authorized person to perform massages shall offer or perform any service other than those posted or listed.

(G) Complementary And Alternative Health Care Client Bill Of Rights: Prior to providing any service, the licensee must provide clients/customers with the complementary and alternative health care client bill of rights as stated by Minnesota statute¹, must have the client sign a written statement attesting that the client has received the statement, and must comply with all other requirements of state law in chapter 146A or other applicable law. The operator of the massage enterprise must post a copy as required by law and ensure compliance with the statutory provisions. (Ord. 1381, 3-22-2016)

3-15-4: LICENSE FEES; LICENSE INVESTIGATION FEES:

The annual fee for a license and the investigation fee for the purpose of licensing, including renewals, for massage enterprise and for individual massage therapist licenses shall be established from time to time by resolution or ordinance of the city council. In the event that the license is denied upon application, the license fee shall be refunded; however, no part of the license investigation fee shall be returned to the applicant. No part of the annual license fee shall be refunded if the license is suspended, revoked or discontinued. The initial license fee may be prorated. Further, the investigation fee may be reduced if an approved third party background report is provided upon a new application. (Ord. 1381, 3-22-2016)

3-15-5: INSPECTION:

(A) Permit Inspections: An applicant or licensee shall permit appropriate city personnel or its authorized representatives and agents to inspect the licensed premises for the purpose of ensuring compliance with the law, at any time the business is occupied or open for business. (Ord. 1315, 3-18-2014)

(B) Requirements: An applicant or licensee shall meet the following requirements:

1. A therapeutic massage enterprise must take reasonable steps to prevent the spread of infections and communicable diseases on the licensed premises.
2. A therapeutic massage enterprise must be equipped with adequate and conveniently located toilet room(s) for the accommodation of its employees and patrons. The toilet room(s) must be well ventilated by natural or mechanical methods and be enclosed with a door. The toilet room(s) must be kept clean and in good repair and be fully and adequately illuminated.
3. A therapeutic massage enterprise must provide single service disposal paper or clean linens to cover the table, chair, furniture or area on which the patron receives the massage and must be sanitized after each massage.
4. Massage tables, chairs or furniture on which the patron receives the massage must have surfaces that can be readily cleaned and disinfected after each massage.
5. The therapeutic massage therapist must wash the therapist's hands and arms with water and

soap, antibacterial scrubs, alcohol or other disinfectants prior to and following each massage service performed.

6. Rooms in a therapeutic massage enterprise must be fully and adequately illuminated.
7. A therapeutic massage enterprise must have a janitor's closet that provides for the storage of cleaning supplies.
8. Therapeutic massage enterprises must provide adequate refuse receptacles.
9. Therapeutic massage enterprises must be maintained in good repair and sanitary condition.
10. Therapeutic massage enterprises must comply with the requirements of Minnesota statutes section 144.411 et seq.
11. Massage therapists must be fully clothed with nontransparent clothing when performing massage services.

(C) Other Fees: The licensee shall be responsible for any city costs in enforcing the license provisions including reinspection fees, attorney fees, etc. (Ord. 1381, 3-22-2016)

3-15-6: GROUNDS FOR SUSPENSION OR REVOCATION:

(A) Suspension: The city manager or designee shall suspend a license for a period not to exceed thirty (30) days if the manager or designee determines that a licensee or an employee of a licensee has:

1. Violated any provisions of this chapter;
2. Engaged in excessive use of alcoholic beverages or use of illegal drugs while on the licensed premises, or while performing therapeutic massage services;
3. Refused to allow an inspection of the licensed premises as authorized by this chapter;
4. Demonstrated inability to operate or manage the massage enterprise in a peaceful and law abiding manner thus necessitating action by law enforcement officers;
5. Been found not to be fully clothed. The licensee or employee of the licensee shall not expose his/her breast, buttocks, anus, or genitals.

(B) Revocation: The city manager shall revoke a license if a cause of suspension in subsection (A) of this section occurs and the license has been suspended within the preceding twelve (12) months, or if the city manager or designee shall determine that:

1. A licensee gave false or misleading information in the material submitted during the application process;

2. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
3. A licensee or an employee knowingly operated the massage enterprise during a period of time when the licensee's license was suspended;
4. A licensee, employee or person performing massage services for the massage enterprise has been convicted of an offense listed in subsection [3-15-3\(A\)7](#) of this chapter;
5. A licensee is delinquent in payment to the city for ad valorem taxes, local lodging tax, or other taxes or fees related to the massage enterprise.

(C) Additional Requirement: The city council may base denial, suspension, revocation, or nonrenewal of a license upon any additional grounds which they may, in their sole discretion, impose.

(D) Conviction Appeal: The fact that a conviction is being appealed shall have no effect on the revocation. (Ord. 1315, 3-18-2014)

3-15-7: APPEAL:

(A) Notice Of Action: If the city manager or designee denies the issuance of a license, or suspends, or revokes a license, or imposes civil penalties as prescribed in this title, the manager or designee shall send to the applicant, or licensee, by certified mail, return receipt requested, written notice of the action, and the right to an appeal. Appeals shall be heard as set forth in section [1-4-6](#) of this code. (Ord. 1359, 11-2-2015)

3-15-8: EXPIRATION OF LICENSE:

(A) Each renewal license shall be issued for a maximum period of one year. All licenses expire on June 30 of each year. Each license may be renewed only by making application as provided in section [3-15-3](#) of this chapter.

(B) When the city manager or designee denies renewal of a license, the applicant shall not be issued a license unless the city manager or designee finds that the basis for denial of the renewal license has been corrected or abated, and ninety (90) days have elapsed since the date denial became final. (Ord. 1315, 3-18-2014)

3-15-9: RESTRICTIONS AND REGULATIONS:

- (A) **Compliance With Law:** The licensee and any person in his/her employ or agents or officers thereof and any and all persons with an interest in or providing massage therapist services at or as part of said business shall comply with applicable ordinances, regulations, and laws of the city, the state of Minnesota, and the United States.
- (B) **Hours Of Operation:** Licensees or employees of licensees shall not perform massages nor shall massage patrons be permitted on the licensed premises, if any, between the hours of eleven o'clock (11:00) P.M. and six o'clock (6:00) A.M. (Ord. 1315, 3-18-2014)
- (C) **Posting Of License:** The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the licensed premises, if any. The license shall be posted in a conspicuous place at or near the entrance to the licensed premises so that it may be easily read at any time. Transient individual therapists must provide a copy of their current license when performing massage therapy within the city upon request. (Ord. 1381, 3-22-2016)
- (D) **Transfer Of License Prohibited:** A licensee shall not transfer his/her license to another, nor shall a licensee change the location of a massage enterprise under the authority of a license without providing the city with notice of a change in location prior to such a change occurring.
- (E) **Windows:** The exterior windows of the commercial licensed premises must not be one hundred percent (100%) opaque during hours that the licensed premises is open for business, except for windows in massage rooms and restrooms.
- (F) **Advertising:** No licensee shall advertise through any media that is classified for adults only or for sexually oriented business or similar classification, or use any advertising that refers to the massage services as appealing to or satisfying an erotic or prurient interest, lust, sexual or passionate desire. (Ord. 1315, 3-18-2014)
- (G) **Person Receiving Massage Therapy:** The person receiving massage therapy shall at all times have his/her anus, intergluteal cleft (buttocks crease) and genitals covered with clothing or properly draped with nontransparent material. The person who is receiving massage therapy of the breast or buttocks (gluteal) shall have the breast or buttock (gluteal muscle) that is not then immediately receiving massage therapy properly covered and draped with nontransparent material.
- (H) **Minors:** No person shall give, or assist in the giving, of any massage to any person under the age

of eighteen (18) years, unless the parent or guardian of such minor person has consented thereto in writing. (Ord. 1381, 3-22-2016)