

MESSAGE THERAPY ESTABLISHMENT AND MESSAGE THERAPISTS
Chapter 93

93.10 Definitions

- (1) Accredited Institution. An educational institution holding accredited status from the North Central Association of Colleges and Schools (NCA) or another regional accrediting agency approved by the United States Department of Education presently or at the time the applicant obtained his/her diploma or certificate of graduation.
- (2) Accredited Program. A professional massage program presently or at the time the applicant obtained his/her diploma or certificate of graduation accredited by the Commission on Massage Therapy Accreditation (COMTA), or a comparable national or regional organization which is approved by the United States Department of Education for its accrediting program for compliance with quality and competency standards through a process of periodic review and self-study.
- (3) City Officials. Any representative of the City, or its designees on behalf of the City, inspecting massage therapy establishments for license and code enforcement, zoning, building inspections, etc. This includes, but is not limited to: Fire Technician, Code Enforcement, Building Official, Sheriff Department, etc.
- (4) Massage Therapy or Therapeutic Massage. A scientific health care or health maintenance technique or procedure carried out by a massage therapist involving the rubbing, tapping, pounding or kneading of a person's skin, muscles, and tissues or the stretching of body limbs (e.g., Thai massage) for the purpose of easing mental and physical tension, the breaking up of fatty tissues, relaxing muscles, or alleviating muscle spasms, and the improvement of circulation through the body.
- (5) Massage Therapy Business.
 - (a) Any enterprise, establishment, or operation, whether under control of an individual or legal entity, providing or offering to provide massage therapy services within the City for a fee or other consideration paid either directly or indirectly, that:
 - (i) Has one or more massage therapists, including the owner, employed or contracted to provide massage therapy services for the massage therapy business; or
 - (ii) Is located in a fixed location in a non-residential district within the City wherein massage therapy services are provided.
 - (b) Any health or medical facility, office, or clinic operated by state licensed medical professional(s) or any health or medical-related business operated by state licensed medical professional(s), which provides therapeutic massage to its patients, shall not be deemed as a massage therapy business.
- (6) Massage Therapist. A person who practices or provides therapeutic massage to another for a fee paid either directly or indirectly. A person licensed as a medical doctor, chiropractor, osteopath, podiatrist, licensed nurse, physical therapist, athletic director or trainer, or beautician (cosmetologist) or barber who confines his/her treatment to the scalp, face, and neck or the lower leg and feet in the case of a pedicure shall not be deemed as a massage therapist.

- (7) Student of Massage Therapy. A person who is enrolled in and attends classes at a school, college, university, or other institution that is approved by the American Massage Therapists Association (AMTA) or other similar reputable massage association or accredited by a recognized educational accrediting association or agency or is licensed by the state or local government agency having jurisdiction over the school.

93.20 Prohibited Establishments or Operations. Any use, establishment, operation or business whose massage therapy services include sessions offered to adults, conducted in private by members of the same or the opposite sex, and employing personnel with no specialized training and susceptible to operation in a manner contravening, subverting or endangering the morals of the community by being the site of acts of prostitution, illicit sex and occasions of violent crimes are prohibited.

93.30 Massage Therapy Establishment License.

- (1) License required. It is unlawful for any person to operate a massage therapy establishment within the City without obtaining an annual license therefore from the City, which shall expire on December 31st of each year. It is unlawful for any person to practice therapeutic massage therapy in any place except upon a licensed premises, unless a temporary off-site permit is issued in accordance with the Temporary Off-Site Permit provisions of this Ordinance.
- (2) License application and fee.
 - (a) All initial applications for licenses to operate massage therapy establishments shall be on a form provided by the City and contain all information requested thereon and shall contain such other information as the City may require. Any massage therapy business that is existing and operational within the City as of the effective date of this Chapter shall be required to be licensed beginning January 1, 2016, with application submitted no later than November 15, 2015.
 - (b) The initial application shall be accompanied by a nonrefundable fee pursuant to Section 90.030, which covers the licensing fee of one individual massage therapist.
 - (c) The Ramsey County Sheriff's Department shall conduct an investigation of the licensee of the establishment and all persons proposed to be licensed before consideration by the City.
- (3) License renewal and fee. A license may be annually renewed, provided the license complies with the renewal application process as follows:
 - (a) The licensee shall complete the renewal application on a form provided by the City and contain all information requested thereon and shall contain such other information as the City may require.
 - (b) The completed renewal application shall be accompanied by a nonrefundable fee pursuant to Section 90.030 and shall be filed with the City Clerk no later than November 15th of each year. This fee shall cover the licensing fee of one individual massage therapist.
 - (c) The massage therapy establishment licensee shall provide all information regarding ownership interest if different than the prior application. If ownership interests have changed, an additional background investigation fee may be required.
- (4) Exception. This section shall not apply to, and no massage therapy establishment license shall be required for:
 - (a) Health care facility:
 - (i) Owned by a municipal corporation organized under the laws of the state, or;
 - (ii) Owned by the state or any of its agencies; or
 - (iii) A health care facility licensed by the state; or

- (b) Any business or entity owned and operated by a state licensed medical professional(s) through whom therapeutic massage is provided to its patients as a secondary health care treatment by the business or entity; or
 - (c) A school, college, university or other accredited institution which provides an accredited program of study or course work in massage therapy or therapeutic massage provided:
 - (i) The school, college, university or institution meets the criteria set forth in the definition of student of massage therapy herein;
 - (ii) The massage therapy is provided during and as part of a course or clinical component of the school's program or course work; and
 - (ii) The person is supervised by an instructor while providing or performing massage therapy.
- (5) Restrictions and regulations.
- (a) Licenses shall be granted only for operation at a fixed location or premises, which shall be located in a district as permitted by the Zoning Code. Massage therapists shall not be allowed to operate as a home occupation business.
 - (b) Licenses shall be granted only upon a showing of compliance with all laws of sanitation.
 - (c) No beer, liquor, narcotic drug or controlled substances, as such terms are defined by state statutes or the City Code, shall be permitted on licensed premises.
 - (d) Violation of any law or regulation relating to building, safety or health shall be grounds for revocation of any license.
 - (e) No doors of massage rooms, when occupied by one or more persons, shall be locked. All locks, if any, shall be keyed only from the exterior of the massage rooms.
 - (f) Massage therapist shall at all times be fully clothed.
 - (g) Clients shall be properly covered and draped with non-transparent material, except for the body part being worked on.
 - (h) Massage therapy establishments shall not be open between the hours of 10:00 p.m. and 6:00 a.m. of any day.
 - (i) Only massage therapists who are licensed by the City shall practice or provide therapeutic massage services for a licensed massage therapy business or within the licensed massage therapy business premises as identified in its license.
 - (j) No massage therapy establishment shall discriminate between persons on the basis of race, color, creed, sex or national origin or ancestry.
 - (k) All premises licensed under this section shall, during all operating hours, be open to City inspection to determine whether or not this section and all other laws are being observed. All persons, as a condition to being issued such license, consent to such inspections by such officials and without a warrant for searches and seizures. It is unlawful for any licensee or agent or employee of a licensee to hinder or prevent a City official from making such inspection.
 - (l) The licensee shall post its valid establishment license and have available upon request the valid license and photo of each massage therapist providing massage therapy at the licensed establishment on the licensed premises.
 - (m) The requirements of Chapter 21 shall remain in place.
 - (n) All massage therapy establishment licensees shall comply with any and all provisions of and amendments to this Ordinance. Failure to do so shall be grounds for revocation of any license.

- (6) Manager or agent. Before a license is issued under this section to an individual who is a nonresident of the City, to more than one individual whether or not they are residents of the City, or to a corporation, partnership, or association, the applicant or applicants shall appoint in writing a natural person as its on-premises manager or agent. Such on-premises manager or agent shall, by the terms of his written consent, (1) take full responsibility for the conduct of the licensed premises, and (2) serve as agent for service of notices and other process relating to the license. Such manager or agent shall be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If such manager or agent ceases to be located at the licensed premises or ceases to act in such capacity for the licensee without appointment of a successor, the license issued pursuant to such appointment shall be subject to revocation or suspension.
- (7) Proof of local residency required. The licensee, managing partner, or manager of the licensed premise shall be required to show proof of residency in one of the following counties: Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright in Minnesota, and St. Croix or Pierce in Wisconsin.

93.40 Massage Therapist License.

- (1) License required. It is unlawful for any person to provide or practice therapeutic massage within the City without obtaining an annual license therefore from the City, which shall expire on the anniversary date of the individual's original licensure date each year. It is unlawful for any person to provide or practice therapeutic massage therapy in any place except upon a licensed premises, unless a temporary off-site permit or a mobile permit is issued in accordance with Sections 93.50 or 93.60 of this Ordinance.
- (2) License application and fee.
 - (a) All initial applications for a license to provide therapeutic massage shall be on a form provided by the City and contain all information requested thereon and shall contain such other information as the City may, from time to time, require. Any massage therapist that is practicing therapeutic massage within the City as of the effective date of this Chapter shall be required to be licensed beginning January 1, 2016, with application submitted no later than November 15, 2015.
 - (b) The initial application shall be accompanied by a nonrefundable fee pursuant to Section 90.030.
 - (c) The Ramsey County Sheriff's Department shall conduct an investigation of the person proposed to be licensed before consideration by the City.
- (3) License renewal and fee. A license may be annually renewed, provided the license complies with the renewal application process as follows:
 - (a) The licensee shall complete the renewal application on a form provided by the City and contain all information requested thereon and shall contain such other information as the City may require.
 - (b) The completed renewal application shall be accompanied by a nonrefundable fee pursuant to Section 90.030 and shall be filed with the City Clerk no later than 45 days prior to the anniversary date of the individual's original licensure.
- (4) Exception. A massage therapist license shall not be required for a massage therapist if:
 - (a) The therapist is hired or employed by, and exclusively provides treatment on the premises of, a medical professional licensed under Minn. Stat. Ch. 147 or 148 or a dental professional licensed under Ch. 150A; or any student of massage therapy meeting the definition as set forth herein, provided:
 - (i) The massage therapy is provided during and as part of a course or clinical component of the school's program or course work; and

- (ii) The massage therapy student is supervised by an instructor while providing or performing massage therapy services. A notice, which advises the public that the person who may provide massage therapy services is a student of massage therapy and is not licensed by the City, shall be posted in a conspicuous location in the room in which the massage therapy is provided.
 - (iii) The massage therapist is registered in a State Registration or Licensure Program.
- (5) Restrictions and regulations.
- (a) A massage therapist license shall not be issued unless the applicant provides proof of the following:
 - (i) A diploma or certificate of graduation from a school approved by the American Massage Therapist Association (AMTA) or other similar reputable massage association; or
 - (ii) A diploma or certificate of graduation from a school, which is either accredited by a recognized educational accrediting association or agency or is licensed by the state or local government agency having jurisdiction over the school; or
 - (iii) A certificate of National Certification for Therapeutic Massage and Body Work by the National Certification Board of Therapeutic Massage and Body Work, an affiliate of the American Massage Therapy Association; or
 - (iv) Completion of a minimum of 500 credit hours of certified therapeutic massage training/course work.
 - (b) A licensed massage therapist shall have available upon request his or her valid license and photo on the licensed premises where he or she provides massage therapy or therapeutic massage.
 - (c) Massage therapists shall not be allowed to operate as a home occupation business.
 - (d) Proof of local residency required. The licensee shall show proof of residency in one of the following counties: Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright in Minnesota, and St. Croix or Pierce in Wisconsin.

93.050 Temporary Off-Site Permit. Notwithstanding the provisions regulating a massage therapy establishment license hereunder, a massage therapist licensed by the City may provide massage therapy at a location within the City other than a licensed premises in connection with a special event or function whereby the massage therapist provides massage therapy to attendees of the event or function, if the following conditions are met:

- (1) A temporary off-site permit is issued by the City and the applicable fee pursuant to Section 90.030 is paid. If applicable, a permit may be issued to an establishment for up to three (3) licensed massage therapists for one event.
- (2) A massage therapist shall not operate off-site for more than seven (7) days throughout the year.
- (3) A separate permit shall be issued for separate events.
- (4) All massage therapy permitted under this provision shall comply with all of the provisions of this Ordinance governing licensed massage therapy establishments and licensed massage therapists.

93.060 Mobile Permit. Notwithstanding the provisions regulating a massage therapy establishment license hereunder, a massage therapist licensed by the City may provide in-home massage therapy services within the City, if the following conditions are met:

- (1) A mobile permit is issued by the City and the applicable fee pursuant to Section 90.030 is paid.

- (2) The mobile permit shall be valid for one year.
- (3) All massage therapy permitted under this provision shall comply with all of the provisions of this Ordinance governing licensed massage therapy establishments and licensed massage therapists.

93.70 Grounds for Denial of a License.

- (1) A massage therapy establishment shall not be issued a massage therapy establishment license upon the following grounds:
 - (a) The proposed fixed location or premises of the massage therapy establishment is not a permitted or special use for the property as established by the zoning regulations in this Code;
 - (b) The owner, operator, or any person who has a 5 percent or more financial interest in the proposed licensed massage therapy establishment or the appointed on-site manager or agent of the applicant has a conviction for, or was charged with, but convicted of a lesser charge of, a crime involving a violation of any massage therapy related regulation in any other jurisdiction, any prostitution-related offense, criminal sexual conduct, indecent exposure, invasion of privacy, stalking, harassment, disorderly house as defined by Minnesota Statutes, theft, felony drug offense, any crime of violence as defined by Minnesota Statutes, or any other similar crime or offense within (10) ten years of the date of application;
 - (c) The owner, operator, or any person who has a 5 percent or more financial interest in the proposed licensed massage therapy establishment had a massage therapist or massage therapy business-related license in another jurisdiction suspended or revoked within ten years preceding the date of application;
 - (d) The application failed to identify the full name, address, and date and place of birth of the natural person designated by the applicant as the massage therapy establishment's on-site manager or agent, along with the notarized written consent of such a person to: (1) take full responsibility for the conduct of the licensed premises and operation; and (2) serve as agent for service of notices and other process relating to the license;
 - (e) The applicant provided false or misrepresented information in the application;
 - (f) The applicant has been denied a license within the preceding 12 months;
 - (g) Failure to provide proof of liability insurance; or
 - (h) Any other basis as provided in this Ordinance.
- (2) A massage therapist shall not be issued a massage therapist license upon the following grounds:
 - (a) The applicant has a conviction for or was charged with, but convicted of a lesser charge, a crime involving a violation of any massage therapy related regulation in any other jurisdiction, any prostitution-related offense, criminal sexual conduct, indecent exposure, invasion of privacy, stalking, harassment, disorderly house as defined by Minnesota Statutes, theft, felony drug offense, any crime of violence as defined by Minnesota Statutes, or any other similar crime or offense within ten years of the date of application;
 - (b) The applicant had a massage therapist or massage therapy business-related license in another jurisdiction that was suspended or revoked within ten years preceding the date of application;
 - (c) The applicant is not 18 years of age or older;
 - (d) The applicant has not provided proof of education or training as required elsewhere in this section;

- (e) The applicant provided false or misrepresented information on the application;
- (f) The applicant has been denied a license within the preceding 12 months; or
- (g) Any other basis as provided in this Ordinance.

93.80 Suspension or Revocation of a License.

- (1) The City Council may suspend or revoke the license of any massage therapist or massage therapy establishment for violation of any of the following:
 - (a) Fraud, misrepresentation, or incorrect statements on the application form;
 - (b) Fraud, misrepresentation, or false statements made during the course of the licensed activity;
 - (c) Conviction of any offense for which the granting of a license could have been denied under Subd. 7. of this Code; or
 - (d) Violation of any provision of this Code.
- (2) Initial Determination. City officials shall be responsible for initially determining whether a massage therapy establishment or massage therapist has violated any provision of this Ordinance. The Initial Determination shall be conclusive unless the owner appeals the Initial Determination as hereinafter provided.
- (3) Notice of Initial Determination. The Notice of Initial Determination shall be delivered in person or by mail to the permanent address listed on the license application. The Notice of Initial Determination shall describe the violation; shall identify the official making the Initial Determination; and shall inform the owner or massage therapist of their right to appeal the Initial Determination.
- (4) Request for Administrative Hearing. An owner of a massage therapy establishment or massage therapist may appeal the Initial Determination by Filing a Request for Administrative Hearing with the City Administrator within five (5) days of the owner or massage therapist's receipt of the Notice of Initial Determination.
- (5) Administrative Hearing. An administrative hearing shall be held within seven (7) days after the City's receipt of the Request for Administrative Hearing. The City Administrator shall assign a Hearing Officer who shall not be the person who made the Initial Determination. At the hearing, the Hearing Officer shall consider the reports and comments of the City officials, the testimony of any witnesses, witness statements, comments of the employees, comments of the owner, and findings from the Initial Determination.
- (6) Final Determination. After considering all of the evidence submitted, the Hearing Officer shall make written findings and shall determine the suspension or revocation of the license (Final Determination). The Final Determination shall be conclusive unless the owner appeals the Final Determination as hereinafter provided.
- (7) Notice of Final Determination. The Notice of Final Determination and findings shall be made within five (5) days of the date of the hearing and shall be delivered in person or by mail to the permanent address listed on the license application. The Notice of Final Determination shall describe the violation; shall identify the Hearing Officer making the Final Determination; and shall inform the owner or massage therapist of their right to appeal the Final Determination.
- (8) Request for Public Hearing. An owner of a massage therapy establishment or massage therapist may appeal the Final Determination by Filing a Request for a Public Hearing with the City Administrator within five (5) days of the owner's receipt of the Notice of Final Determination.
- (9) Public Hearing. A public hearing shall be held within twenty (20) days after the City's receipt of the Request for Public Hearing. The City Council shall conduct the public hearing, and it shall be publicized in the City's official newspaper. The City Council shall consider the reports and comments of the City officials, the testimony of any

witnesses, witness statements, comments of the owner and employees, findings from the Initial Determination and Final Determination.

- (10) Emergency. If in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a massage therapist or establishment licensed under this ordinance, the Council may immediately suspend the therapists or establishment's license and provide notice of the right to hold a subsequent public hearing.

(Source: Ord. 680 7/1/15)