

ORDINANCE NO. XXX

**AN ORDINANCE AMENDING CHAPTER 119 OF THE SPRING LAKE PARK CITY
CODE RELATED TO MASSAGE SERVICES**

The Spring Lake Park City Council ordains as follows:

Section 1. Section 119.03 is hereby amended as follows:

§119.03 DEFINITIONS.

The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:

ACCREDITED INSTITUTION. An educational institution holding accredited status approved by~~with~~ the United States Department of Education or the Minnesota Office of Higher Education.

ACCREDITED PROGRAM. A professional massage program or educational institution accredited by the Commission on Massage Therapy Accreditation (COMTA).

CLEAN. The absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.

GOOD REPAIR. Free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.

ISSUING AUTHORITY. The Administrator, Clerk/Treasurer of the City of Spring Lake Park, or his/her designee.

MASSAGE. Any method of pressure on, or friction against, or the rubbing, stroking, kneading, tapping, pounding, vibrating, stimulating, or rolling of the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus, or other appliances or devices, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparations. This includes the concept of touch therapy or snuggling.

MASSAGE THERAPIST. An individual who practices or administers massage to the public who can demonstrate to the issuing authority that he or she:

(A) Possessed a massage therapist license issued by the City of Spring Lake Park on December 31, 2013 and is affiliated with, employed by, or owns a therapeutic massage enterprise licensed by the City; or

(B) Has current insurance coverage of \$1,000,000.00 for professional liability in the practice of massage;

(C) Is affiliated with, employed by, or owns a therapeutic massage enterprise licensed by the City; and

(D) Has completed 500 hours of certified therapeutic massage training with content that includes the subjects of anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice from an accredited program, ~~or accredited institution, or a program or institution~~ licensed or verified by a state licensing board or agency that has been approved by the issuing authority. These training hours must be authenticated by a single provider through a certified copy of the transcript of academic record from the school issuing the training, degree or diploma. In the event the accredited program or accredited institution is no longer in existence, in the sole discretion of the city, a certified copy of the transcript of academic record may be accepted directly from the applicant with an affidavit stating said transcript of academic record is authentic. The transcript of academic record must be from a program or institution that was once accredited and approved by the issuing authority. The certified copy of the transcript of academic record must contain the applicant's name, last address of the accredited institution at the time of closing, and reflect the 500 hours of certified therapeutic massage training with content that includes the subjects of anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice, as required.

OPERATE. To own, manage, or conduct, or to have control, charge, or custody over.

PERSON. Any individual, firm, association, partnership, corporation, joint venture, or combination of individuals.

THERAPEUTIC MASSAGE ENTERPRISE. An entity which operates a business which hires only licensed therapeutic massage therapists to provide therapeutic massage to the public. The owner/operator of a therapeutic massage enterprise need not be licensed as a therapeutic massage therapist if he or she does not at any time practice or administer massage to the public. A therapeutic massage enterprise may employ other individuals such as cosmetologists and estheticians, and these individuals are not required to have a massage therapist license as long as they are not providing therapeutic massage to the public.

WITHIN THE CITY. Includes physical presence as well as telephone referrals such as phone-a-massage operations in which the business premises, although not physically located within the city, serves as a point of assignment of employees who respond to requests for services from within the city.

Section 2. Section 119.05 of the Spring Lake Park Code of Ordinance is amended as follows:

§119.05 EXCEPTIONS.

A therapeutic massage enterprise or therapist license is not required for the following persons and places:

(A) Persons duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, provided the massage is administered in the regular course of the medical business and not provided as part of a separate and distinct massage business.

(B) Persons duly licensed by this state as beauty culturists or barbers, provided such persons do not hold themselves out as giving massage treatments and provided the massage by beauty culturists is limited to the head, hand, neck, and feet and the massage by barbers is limited to the head and neck.

(C) Persons working solely under the direction and control of a person duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry.

(D) Places duly licensed or operating as a hospital, nursing home, hospice, sanitarium, or group home established for the hospitalization or care of human beings.

(E) Students of an accredited institution who are performing massage services in the course of a clinical component of an accredited program of study, provided that the students are performing the massage services at the location of the accredited institution and provided the students are identified to the public as students of massage therapy. Students of an accredited institution who are performing massage services at clinics or other facilities located outside of the accredited institution must have at least 150 hours of certified therapeutic massage training at the accredited institution prior to performing the therapy outside of the institution, must have proof of liability insurance, and must be identified to the public as a student of massage therapy; ~~and/or~~

(F) Athletic coaches, directors or trainers employed by public or private schools; and/or

(G) Individuals licensed in another municipality performing massage services as part of a wellness event/expo where such event will not be more than three (3) days in length. Written notice must be provided to the city and must include dates, times and location(s) of such event.

Section 3. Section 119.06 is hereby amended as follows:

§119.06 LICENSE APPLICATION.

(A) Therapeutic massage enterprise license application. An application for a therapeutic massage enterprise license shall be made on a form supplied by the Administrator, Clerk-Treasurer and shall request the following information:

(1) *All applicants.* For all applicants:

(a) Whether the applicant is an individual, corporation, partnership, or other form of organization.

(b) The legal description of the premises to be licensed together with a plan of the area showing dimensions, location of buildings, street access, and parking facilities.

(c) The floor number, street number, suite number(s) and rooms where the massage services are to be conducted.

(d) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid.

(e) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans for design are on file with the City's code enforcement department, no plans need be submitted to the issuing authority.

(f) The name and street address of the business if it is to be conducted under a designation, name, or style other than the name of the applicant, and a certified copy of the certificate as required by Minn. Stat. § 333.02.

(g) The amount of the investment that the applicant has in the business, buildings, premises, fixtures, furniture, and equipment, and proof of the source of such investment. The identity of all other persons investing in the business, building, premises, fixture, furniture and equipment, the amount of their investment and proof of the source of such investment.

(h) All applications for licenses, whether enterprise or individual applications, shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by such person; if by a corporation, by an officer thereof; if by an incorporated association, by the manager or officer thereof; if by a limited liability company (LLC), by a member thereof. Any falsification of information on the license application shall result in the denial of the license and the applicant may be subject to prosecution for forgery as defined by MN State Statute.

(i) Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was denied, revoked or suspended within the last ten years of the date the license application is submitted to the issuing authority.

(j) Whether the applicant has ever been engaged in the operation of massage services. If so, applicant shall furnish information as to the name, place, dates and length of time of the involvement of any and all such establishments.

(~~i~~k) Such other information as the City Council or issuing authority shall require.

(l) Applicant is responsible for reading and understanding the City ordinance regarding therapeutic massage and for communicating and providing interpretation when necessary to all massage therapists licensed at the enterprise to ensure compliance.

(2) *Individuals.* For applicants who are individuals:

(a) The name, place and date of birth, and street residence address of the applicant.

(b) Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used.

(c) Whether the applicant is a citizen of the United States or a resident alien or has the legal authority to work in the United States.

(d) Street addresses and dates at which the applicant has lived during the preceding ~~five~~ten years.

(e) The type, name, ~~and location,~~ and dates of every business or occupation the applicant has been engaged in during the preceding ~~five~~ten years.

(f) Whether the applicant is currently licensed in other communities to perform massage therapy, and if so, where.

(g) Names, ~~and addresses,~~ contact information and dates of the applicant's employers for the preceding ~~five~~ten years.

(h) Whether the applicant has ever been arrested, charged or convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense. If so, the applicant shall furnish information as to the date, time, place and offense for which arrests, charges or convictions were had.

(i) Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last ~~five~~ten years of the date the license application is submitted to the issuing authority.

(j) Whether the applicant has ever been engaged in the operation of massage services. If so, applicant shall furnish information as to the name, dates, place and length of time of the involvement in such an establishment.

(k) Such other information as the city council or issuing authority shall require.

(3) *Partnerships.* For the applicants that are partnerships: the names and addresses of all general and limited partners and all information concerning each general partner as is required in paragraph (2) of this section of this Code. The managing partners shall be designated and the interest of each general and limited partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application, and if the partnership is required to file a certificate as to a trade name under Minn. Stat. § 333.02, a certified copy of such certificate shall be submitted. The license shall be issued in the name of the partnership.

(4) *Corporations and other organizations.* For applicants that are corporations or other types of organizations:

(a) The name of the organization, and if incorporated, the state of incorporation.

(b) A true copy of the certificate of incorporation, and, if a foreign corporation, a certificate of authority as described in Minn. Stat. § 303.02.

(c) The name of the general manager, corporate officers, proprietor, and other person in charge of the premises to be licensed, and all the information about said persons as is required in paragraph (2) of this section of this Code.

(d) A list of all persons who own or control an interest in the corporation or organization or who are officers of said corporation or organization, together with their addresses and all the information regarding such persons as is required in paragraph (2) of this section of this Code.

(B) *Massage therapist application.* An application for a massage therapist license shall be made on a form supplied by the Administrator, Clerk-Treasurer and shall request the following information:

(1) The applicant's name and current address.

(2) The applicant's current employer.

(3) The applicant's employers for the previous ~~five~~ten years, including the employer's name, address and dates of employment.

(4) The applicant's addresses and dates for the previous ~~five~~ten years.

(5) The applicant's date of birth, home telephone number, weight, height, color of eyes, and color of hair. A color photocopy of the applicant's MN driver's license or MN I.D. front and back, or any other government-issued I.D. If the photocopy is not acceptable to the Police Chief, the Police Department may take photographs for the file.

(6) Whether the applicant has ever been arrested, charged or convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense and, if so, the date, time, place, and offense for which arrests, charges or convictions were had.

(7) Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was denied, revoked or suspended within the last ~~five~~ten years of the date the license application is submitted to the issuing authority.

(8) The names, resident and business addresses and contact information of those residents of the metropolitan area, of good moral character, not related to the applicant or financially interested in the premises of the business, who may be referred to as the applicant's character.

(9) Whether the applicant is a U.S. citizen or resident alien or has the legal authority to work in the United States.

(10) Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used.

(11) Whether the applicant has met the definition of a massage therapist in section §119.03 of this Code.

(12) Whether the applicant has ever been the subject of an investigation, public or private, criminal or non-criminal, regarding massage therapy.

~~(13)~~ Such other information as the City Council or Issuing Authority shall require.

Section 4. Section 119.08 is hereby amended as follows:

§119.08 LICENSE APPLICATION VERIFICATION AND CONSIDERATION.

(A) *Therapeutic massage enterprise license.*

(1) All applications shall be referred to the Chief of Police, or his or her designee, and such other City departments as the Administrator, Clerk-Treasurer shall deem necessary for verification and investigation of the facts set forth in the application. The Chief of Police, or his or her designee, is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant. The Chief of Police, or his or her designee, is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. The Chief of Police, or his or her designee, and other consultants shall make a written recommendation to the City Council as to the issuance or non-issuance of the license. The City Council or Chief of Police or his/her designee may order and conduct such additional investigation as it deems necessary, including but not limited to contacting other state agencies. In addition, all applications must include results of a comprehensive national criminal background check from a background investigative provider approved by the city. The national criminal background check is to be obtained and paid for by the therapeutic massage enterprise licensee upon signed release from employee. Upon completion of its investigation, the council shall grant or deny the license.

(B) *Massage therapist license.*

(1) Within a reasonable period after receipt of a complete application and applicable fees for a massage therapist license, the issuing authority shall make recommendation to grant or deny the application. The issuing authority is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry, background check, and/or a driver's license history inquiry on the applicant. The City Council or Chief of Police or his/her designee may order and conduct such additional investigation as it deems necessary, including but not limited to contacting other state agencies. In addition, all applications must include results of a comprehensive national criminal background check from a background investigative provider approved by the city. The national criminal background check is to be obtained and paid for by the therapeutic massage enterprise licensee upon signed release from employee. Notice shall be sent by the Administrator, Clerk-

Treasurer by regular mail to the applicant upon a denial informing the applicant of the right to appeal to the City Council within 20 days. If an appeal is properly made, the matter shall be placed on the next available City Council agenda.

Section 5. Section 119.09 is hereby amended as follows:

§119.09 LOCATIONS INELIGIBLE FOR THERAPEUTIC MASSAGE ENTERPRISE LICENSE.

(A) *Therapeutic massage enterprise license.* No therapeutic massage enterprise license shall be issued to an individual or entity which:

(1) Is not 18 years of age or older at the time the application is submitted to the issuing authority;

(2) Has been arrested, charged or convicted of any crime directly related to the occupation licensed, as prescribed by M.S. § 364.03, subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee, as prescribed by M.S. § 364.03, subd. 3;

(3) Has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was denied, revoked or suspended within the last five years of the date the license application is submitted to the issuing authority;

(4) Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;

(5) Is not of good moral character or repute;

(6) Is not the real party in interest of the enterprise;

(7) Has knowingly misrepresented or falsified information on ~~the~~ license application at any time in the preceding ten (10) years;

(8) Cannot meet the definition of therapeutic massage enterprise in § 119.03;

(9) Owes taxes, assessments or other financial claims to the state, county, school district, or city that are due and delinquent; or

(10) Is the spouse of a person whose massage-related license has been denied, suspended or revoked in the past ~~five~~ten years.

(B) *Massage therapist license.* No massage therapist license shall be issued to a person who:

(1) Is not 18 years of age or older at the time the application is submitted to the issuing authority;

(2) Has been arrested, charged or convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03, subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee, as prescribed by M.S. § 364.03, subd. 3;

(3) Whether the applicant has had an interest in, individually or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was denied, revoked or suspended within the last ~~five~~ten years of the date the license application is submitted to the issuing authority;

(4) Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;

(5) Is not of good moral character or repute;

(6) Has knowingly misrepresented or falsified information on ~~the~~ license application at any time in the preceding ten (10) years;

(7) Is not affiliated with, employed by, or does not own a therapeutic massage enterprise licensed by the city; or

(8) Cannot meet the definition of massage therapist in § 119.03.

Section 6. Section 119.10 is hereby amended as follows:

§119.10 LOCATIONS INELIGIBLE FOR THERAPEUTIC MASSAGE ENTERPRISE LICENSE.

(A) *Delinquent taxes.* No therapeutic massage enterprise shall be licensed if such enterprise is located on property on which taxes, assessments, or other financial claims to the state, county, school district, or city are due and delinquent. In the event a suit has been commenced under M.S. §§ 278.01-278.13, questioning the amount or validity of taxes, the City Council may, on application, waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one year after becoming due.

(B) *Improper zoning.* No therapeutic massage enterprise shall be licensed if the location of such enterprise is not in conformance with the city's zoning code.

(C) *Building, fire and code compliance violations.* No therapeutic massage enterprise shall be licensed if the location of such enterprise is not in compliance with State Building and Fire Codes in addition to the City's Code of Ordinance.

(D) Distinct entrance. No therapeutic massage enterprise, unless a home-based enterprise, shall be licensed in the location of such enterprise does not have a distinct, front-facing, public entrance. A distinct, front-facing public entrance for an entire building is required for enterprise locations with multiple suites.

(E) Previous license infractions. No therapeutic massage enterprise license shall be issued or renewed if the massage therapy enterprise has employed two or more massage therapists whose licenses have been suspended and/or revoked within any 12-month period during time of employment

Section 7. Section 119.11 is hereby amended as follows:

§119.11 LICENSE RESTRICTIONS.

(A) Posting of license.

(1) A therapeutic massage enterprise license issued must be posted in a conspicuous place on the premises for which it is used.

(2) A person licensed as a massage therapist shall also post their massage therapist license in a conspicuous place on the premises at which the therapist is associated.

(B) Licensed premises.

(1) A therapeutic massage enterprise license is only effective for the compact and contiguous space specified in the approved license application. Before the licensed premises is enlarged, altered, or extended, the licensee shall inform the Administrator, Clerk-Treasurer within ten business days.

(2) A massage therapist license shall entitle the licensed therapist to perform on-site massage ~~at a business, public gathering, private home, or other site not on the therapeutic massage enterprise premises~~ the therapeutic massage enterprise they are licensed for, the place of residence of the licensed massage therapist or client, or at an office, business, park or institution excluding hotel and motel guest rooms.

(3) It shall be the continuing duty of each licensee to properly notify the Administrator, Clerk-Treasurer, within ten business days, of any change in the information or facts required to be furnished on the application for license and failure to comply with this chapter shall constitute cause for revocation or suspension of such license.

(4) All therapeutic massage must be performed within a building with a valid certificate of occupancy and not in or upon any vacant lot, motor vehicle, trailer, or tent, including but not limited to structures not meant for human habitation.

(C) Transfer of license prohibited. The license issued is for the person or the premises named on the approved license application. No transfer of a license shall be permitted from

place to place or from person to person without complying with the requirements of an original application.

(D) *Affiliation with enterprise required.* A massage therapist shall be employed by, affiliated with, or own a massage enterprise business licensed by the city, unless a person or place is specifically exempted from obtaining a therapeutic massage enterprise license in § 119.05.

(E) *Employment of unlicensed massage therapists prohibited.* No therapeutic massage enterprise shall employ or use any person to perform massage who is not licensed as a therapeutic massage therapist under this chapter, unless the person is specifically exempted from obtaining a therapist license in § 119.05.

(F) *Coverage of genitals/breasts during massage.* The licensee shall require that the person who is receiving the massage shall completely cover, at all times, ~~have his or her~~ genitals and breasts covered with non-transparent material or clothing.

(G) *Therapist dress/uniform requirements.* Any therapist performing massage shall, at all times, be dressed professionally, including short sleeved shirts, skirts no shorter than three inches above the knees, no cleavage showing, nails trimmed and neat, hair pulled back and closed-toed shoes.

(H) *Effect of license suspension or revocation.* No licensee shall solicit business or offer to perform massage services while under license suspension or revocation by the city.

(I) *Massage of certain body parts prohibited.* At no time shall the massage therapist intentionally massage, or offer to massage, the penis, scrotum, mons veneris, vulva, ~~or~~ vaginal area or breasts of a person, unless massage of pectoral muscles is requested by customer or patron.

(J) *Restrictions regarding hours of operation.* No therapeutic massage enterprise shall be open for business, nor shall any therapeutic massage therapist offer massage services, before ~~8:00~~7:00 a.m. or after 10:00 p.m. any day of the week. No customers or patrons shall be allowed to remain upon the licensed premises after 10:30 p.m. and before ~~8:00~~7:00 a.m. daily. Support activities such as cleaning, maintenance and bookkeeping are allowed outside of business hours.

(K) *Proof of local residency required.* In the case of a therapeutic massage enterprise, the licensee, managing partner, or manager of the licensed premises must 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. In the case of therapeutic massage therapists, the licensee must show proof of residing 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.

(L) *Inspections.* In light of the high risk of involvement with illegal conduct, an establishment providing massage therapy poses to the general public, the issuing authority, Code Enforcement Department and/or the Police Department shall have the right to enter, inspect, and search the licensed premises during the hours in which the licensed premises is open for business to ensure compliance with all provisions of this chapter. Any search of the licensed premises are subject to reasonableness standards as recognized by the courts; search warrants will be secured when applicable. Any entry into a private residence will require either consent, exigent circumstances, or a search warrant. With reasonable notice, the business records of the licensee, including income tax returns, shall be available for inspection during the hours in which the licensed premises is open for business. The licensee is subject to a \$250 fee for a third inspection, if orders to correct are issued to the licensee and those orders are not corrected upon re-inspection. Licenses shall be granted only to establishments which can meet the safety and sanitary requirements of the city and of the building code regulations of the city and state.

(M) *Posting of rates.* All massage enterprise businesses must post their rates for service in a prominent place in the entrance or lobby of the business.

(N) *Illegal activities.* In addition to the license restrictions set forth in this section, any advertising by a licensee or representative of a licensee of any potential unlawful, misleading, sexually explicit, obscene or erotic conduct at the licensed establishment shall be prohibited. A licensee under this chapter shall be strictly responsible for the conduct of the business being operated in compliance with all applicable laws and ordinances, including the actions of any employee or agent of the licensee on the licensed premises. No audio or visual recording is allowed at any time.

(O) *Restrictions involving minors.* No person under the age of 18 shall be permitted at any time to be in or on the licensed premises as a customer, guest, or employee, unless accompanied by his/her parent or guardian.

(P) *Food preparation.* Food preparation on site shall only occur in locations specifically designed for that purpose and with proper building permits having been obtained. Food preparation is limited to use for employees during breaks during the regular shift.

(Q) *Habitation.* Massage enterprises shall not contain nor allow the use by any person of sleeping quarters or living spaces of any kind intended for habitation, including but not limited to beds, cots or mattresses. Home-based enterprises shall not contain nor allow the use by any person of sleeping quarters or living spaces of any kind intended for habitation, including but not limited to beds, cots or mattresses in any area where massage is performed.

(R) *Intoxicating alcoholic beverages.* Per MN Statute 340A.401, no person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, charge for possession or otherwise dispose of intoxicating alcoholic beverages onsite. Intoxicating alcohol does not include alcohol used in direct conjunction with massage therapy such as in cleaning.

Section 8. Section 119.12 is hereby amended as follows:

§119.12 RESTRICTIONS REGARDING SANITATION, HEALTH AND SAFETY.

(A) *Toilet room requirements.* A licensed therapeutic massage enterprise shall be equipped with adequate and conveniently located toilet rooms for the accommodation of its employees and patrons. The toilet room shall be well ventilated by natural or mechanical methods and be enclosed with a door. The toilet room shall be kept clean and in good repair and shall be adequately lighted.

(B) *Paper/linen requirements.* A licensed therapeutic massage enterprise shall provide single service disposal paper or clean linens to cover the massage therapy table or; chair; ~~furniture, or area~~ on which the patron receives the massage; or, in the alternative, if the massage therapy table or; chair; ~~or furniture~~ on which the patron receives the massage is made of material impervious to moisture, such massage therapy table or; chair; ~~or furniture~~ shall be properly sanitized after each massage.

(C) *Washing of hands required.* The massage therapist shall wash his or her hands and arms with water and soap, anti-bacterial scrubs, alcohol, or other disinfectants prior to and following each massage service performed.

(D) *Door latches and locks.* Doors on massage therapy rooms shall not be locked or capable of being locked. Locks, latches or other devices intended to secure a door so as to prevent it from being opened by any person from either side of the door, with or without a key, cannot be present on any doors of rooms intended for massage therapy.

(E) *Equipment.* All modalities shall be performed on a raised massage therapy table or chair; no bed, mattress or other similar type equipment shall be allowed onsite except for a mat similar to those used in yoga. No modality may be performed that requires a massage therapist to stand on the massage therapy table or chair unless necessary due to size ratio of massage therapist/client.

(F) *Prohibited modalities.* Modalities involving work performed on the floor or requiring a massage therapist to stand on a massage therapy table, including but not limited to Shiatsu are strictly prohibited unless completely clothed and massage therapist is certified in Shiatsu or other modality by an accredited institution or program.

Section 9. Section 119.13 is hereby amended as follows:

§119.13 TERM, RENEWAL OF LICENSE.

(A) The term of a massage therapist license and a therapeutic massage enterprise license is one year. If an individual or enterprise submits an application any time during a calendar year, the term shall expire December 31 of the year of issuance. The license fee for a partial calendar year may be pro-rated to one-half of the annual fee if an application is filed with the issuing authority after June 30.

(B) Licenses must be renewed annually. A massage therapist license issued under this chapter shall expire on December 31 of the year of issuance of the license. A therapeutic massage enterprise license issued under this chapter shall expire on December 31 of the year of issuance. An application for the renewal of an existing license shall be made at least 75 days prior to the expiration date of the license and shall be made in such form as the issuing authority requires.

(C) An application for a renewal of an enterprise or individual license shall be made in the same manner as the original application. The license and investigation fees for a renewal shall be the same as those contained in § 119.07. If the license holder is a corporation, licenses must also be renewed within 30 days whenever more than 10% of the corporation's stock is transferred. If the license holder is a partnership, the license must also be renewed within 30 days whenever a new partner is added to the partnership. If the license holder is an LLC, the license must be renewed within 30 days whenever a change in membership or chief manager occurs.

(D) After the completion of the renewal license verification process, the issuing authority shall present the enterprise license application to the City Council in accordance with this section. If the application is denied, the Administrator, Clerk-Treasurer shall notify the applicant of the determination in writing and by regular mail to the address provided on the application form. The notice shall inform the applicant of the right, within 20 days after receipt of the notice by the applicant, to request an appeal of the denial to the City Council. If an appeal to the City Council is timely received by the Administrator, Clerk-Treasurer, the hearing before the City Council shall take place within a reasonable period of receipt of the appeal by the issuing authority.

(E) After the completion of the renewal license verification process, the issuing authority shall present the massage therapist license application to the City Council in accordance with this section. If the application is denied, the Administrator, Clerk-Treasurer shall notify the applicant of the determination in writing and by regular mail to the address provided on the application form. The notice shall inform the applicant of the right, within 20 days after receipt of the notice by the applicant, to request an appeal of the denial to the City Council. If an appeal to the City Council is timely received by the Administrator, Clerk-Treasurer, the hearing before the City Council shall take place within a reasonable period of receipt of the appeal by the issuing authority.

Section 10. Section 119.14 is hereby amended as follows:

(A) *Suspension or revocation.*

(1) The City Council may impose an administrative penalty, suspend or revoke a license issued pursuant to this section, at its discretion, for:

(a) A violation related to fraud, misrepresentation, or false statement contained in a license application or a renewal application;

- (b) A violation related to fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business;
- (c) Any violation of this chapter or state law;
- (d) A violation by any licensee or individual that is directly related to the occupation or business licensed, as defined by M.S. § 364.03, subd. 2;
- (e) Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community;
- (f) If the owner, manager, lessee or any of the employees are found to be in control or possession of an alcoholic beverage, a narcotic drug or controlled substance on the premises, other than drugs which may be purchased over the counter without a prescription or those for which the individual has a prescription;
- (g) Failure to maintain insurance coverage, as required under this chapter; and/or
- (h) A material variance in the actual plan and design of the premises from the plans submitted;

(2) Neither the charging of a criminal violation nor a criminal conviction is required in order for the Council to impose an administrative penalty or suspend or revoke a license.

(B) *Notice and hearing.* A revocation or suspension by the City Council shall be preceded by written notice to the licensee and a hearing. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application.

(C) *Ability to reapply after revocation.* The holder of a massage enterprise license or massage therapist license may not reapply for a new license for a period of five (5) years if their license is revoked under this section.

(D) *Ability to reapply after denial.* The applicant for a massage enterprise license or massage therapist license may not reapply for a license for a period of five years if the applicant's license has previously been denied due to fraud, misrepresentation or false statement contained in a previous license or renewal application.

Section 11. Section 119.15 is hereby created and reads as follows:

§119.07 SUSPENSION OF LICENSE FOR VIOLATIONS.

The Chief of Police or his/her designee may immediately suspend a license, pending a hearing, if the licensee, or any person working on behalf of the licensee, is determined to be conducting business in an unlawful manner, any manner that constitutes a breach of the peace or a menace to the health, safety or general welfare of the public, or after repeated complaints received regarding conduct of business practices or method of solicitation.

Section 12. Section 119.99 is hereby amended as follows:

§119.99 PENALTY.

Any person or entity violating the provisions of this chapter is guilty of a misdemeanor under state law, and shall be punished by a fine or by imprisonment, or both, together with the costs of prosecution. Each violation of this chapter shall constitute a separate offense. Arrests, charges or conviction of a violation of this chapter, while not required, may be grounds for the non-renewal, suspension, denial or revocation of any license issued under this chapter.

Section 13. Effective date.

This ordinance shall have full force and effect upon its passage and publication.

Passed by the Council of the City of Spring Lake Park, Anoka County, Minnesota, this ____ day of _____, 2019.

APPROVED BY:

Cindy Hansen, Mayor

ATTEST:

Daniel R. Buchholtz, City Administrator