



# Therapeutic Massage Establishment Application

## Part I – General Information

**Fees:** \$200 Individual/\$300 Corporation, Partnership, Association, etc.

If applicant is a natural person, this application shall be completed by such person. If a partnership, by one of the general partners. If a corporation, an incorporated association, or a limited liability company, the application shall be signed by an officer or member of said entity, providing proof of authority to sign on behalf of said entity.

### Applicant

1. Type of applicant:  Individual  Partnership  Corporation  Other \_\_\_\_\_
2. Legal business name (name of individual, partnership, corporation, or other organization) \_\_\_\_\_  
 **ATTACH** – proof of filing legal business name with State of MN
3. DBA or trade name \_\_\_\_\_  
 **ATTACH** – if business is conducted under a designation, name, or style other than the name of the applicant, attached a certified copy of the certificate as required by MN Stat. § 333.01 and §333.02
4. Premise address \_\_\_\_\_
5. Phone \_\_\_\_\_ Email: \_\_\_\_\_
6. Mailing Address (if different) \_\_\_\_\_
7. Description of services to be provided \_\_\_\_\_
8. MN Statute 270C.72 requires us to collect a tax identification or social security number for each applicant who is issued a license.  
MN Tax ID # \_\_\_\_\_ Federal Tax ID # \_\_\_\_\_  
If you do not have a MN or Federal Tax ID, provide SSN \_\_\_\_\_
9. Have all real estate, personal property taxes, utility bills, assessments, or other financial claims of the city due and payable for the premises to be licensed been paid?  No  Yes  
If no, indicate the years and amounts unpaid \_\_\_\_\_
10. Has the applicant had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business, or firm, a massage license revoked or suspended within the last 5 years?  No  Yes If yes, provide date, place, and explanation \_\_\_\_\_  
\_\_\_\_\_

**Type of Applicant**

Complete only the section below (11a, 11b, or 11c) that applies to the applicant type (refer to question #1)

**A Part 2 – Personal History Form is required for each person listed below.**

**11a. Individual** – if applicable, complete this section and proceed to question 12.

Name \_\_\_\_\_  
First Full Middle Last Maiden

**11b. Partnership** – if applicable, complete this section for all partners, then proceed to question 12.

Name \_\_\_\_\_  
First Full Middle Last Maiden  
Financial interest \_\_\_\_\_ %

Name \_\_\_\_\_  
First Full Middle Last Maiden  
Financial interest \_\_\_\_\_ %

Attach additional sheet if necessary.

**ATTACH** – if partnership, copy of the partnership agreement. The license will only be issued in the name of the partnership.

**11c. Corporation** – if applicable, complete this section then proceed to question 12.

Name of corporation/organization \_\_\_\_\_  
State of incorporation \_\_\_\_\_

List the officers of the corporation and all persons or entities with a financial interest of 10% or more.

Name \_\_\_\_\_  
First Full Middle Last Maiden  
Title \_\_\_\_\_ Financial interest \_\_\_\_\_ %

Name \_\_\_\_\_  
First Full Middle Last Maiden  
Title \_\_\_\_\_ Financial interest \_\_\_\_\_ %

Name \_\_\_\_\_  
First Full Middle Last Maiden  
Title \_\_\_\_\_ Financial interest \_\_\_\_\_ %

Attach additional sheets if necessary.

**ATTACH** – if incorporated, a copy of the certificate of incorporation must be attached. If a foreign corporation, a certificate of authority must be attached as required by MN Stat. §303.06



**Notice and Notarized Signature**

I hereby certify the information supplied on this application and all attachments is true and correct. The information requested on this form will be used by the City of Elk River to approve or deny the license request. I understand falsification or misrepresentation of information submitted on or with my application constitutes grounds for denial of the license. I authorize the City of Elk River to investigate and make whatever inquiries are necessary to verify the information provided and to assure this application complies with the city's ordinances.

I acknowledge I have reviewed Chapter 38 Article VI of the Elk River City Code regarding Therapeutic Massage Establishments and Massage Therapist Licenses and am familiar with the provisions thereof.

\_\_\_\_\_  
Applicant signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Printed name

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public Signature

{Notary Public Stamp Here}

**OFFICE USE ONLY**

**Planning Department**

The therapeutic massage establishment at address listed on this application form is consistent with such use as outlined in the Elk River Code of Ordinances subject to the conditions listed below.

No    Yes

Conditions/Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Planning Department Manager/designee

\_\_\_\_\_  
Date

**Administration**

Application complete: \_\_\_\_\_

Building Compliance Form rcvd?  No    Yes \_\_\_\_\_

Taxes paid?  No    Yes \_\_\_\_\_

Utilities paid?  No    Yes \_\_\_\_\_



## Therapeutic Massage Establishment On-Site Manager/Agent Consent Form

To be completed by the designated on-site manager(s)/agent(s).

On-site manager/agent name \_\_\_\_\_  
First Full Middle Last Maiden

Address: \_\_\_\_\_

I, \_\_\_\_\_, have been designated on-site manager/agent for  
Name of designated on-site manager or agent

\_\_\_\_\_ located at \_\_\_\_\_  
Business name Business address

I affirm the following:

- I reside within 75 miles of the licensed establishment and will maintain such residence requirement throughout the existence of the license and renewals.
- I take full responsibility for the licensed premises.
- I agree to serve as the agent for service of notices and other process relating to the license.

\_\_\_\_\_  
Applicant signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Printed name

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public Signature

{Notary Public Stamp Here}



## Building Compliance Form

Return this form with application

**Check the appropriate box:**

- The building in which the massage or sauna establishment is located is new construction.
- The building in which the massage or sauna establishment is located is an existing building. The applicant has made improvements or changes to the establishment.
- The building in which the massage or sauna establishment is located is an existing building. The applicant has made NO improvements or changes to the establishment.

### FLOOR PLAN

A floor plan showing the size and location of all rooms (hand drawn sketch is permissible or attach the floor plan if created separately).

\_\_\_\_\_ Building Official initials  
Floor plan has been verified



### Inspection Form

The applicant is responsible for scheduling the following inspections **after** a completed Therapeutic Massage Establishment application has been submitted. Keep this form and return it once it has been completed by the Building and Fire Departments.

**Establishment Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Call 763.635.1060 at least 48 hours in advance to schedule an inspection with the Building Official or his designee. Someone must be present to let the inspector in the building.**

I have inspected the building that will be used as a massage or sauna establishment and find that it complies with the requirements of the City Code of Ordinances.

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Building Official/designee

\_\_\_\_\_  
Date

-----  
**Call 763.635.1110 at least 48 hours in advance to schedule an inspection with the Fire Chief or his designee. Someone must be present to let the inspector in the building.**

I have inspected the building that will be used as a massage or sauna establishment and find that it complies with the requirements of the Fire Code.

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Fire Chief/designee

\_\_\_\_\_  
Date



## Therapeutic Massage Establishment Application

### Part 2 – Personal History

To be completed by each owner, partner, officer, each general or on-site manager, proprietor, or any other individual or agent in charge of the business premises and by all persons or entities that have a ten (10) percent or more financial interest in the therapeutic massage establishment.

1. Name of licensed establishment \_\_\_\_\_

2. Business address \_\_\_\_\_

3. Complete the following personal information:

Name \_\_\_\_\_  
First Full Middle Last Maiden

Address \_\_\_\_\_  
Street City County State Zip

Phone \_\_\_\_\_ Email \_\_\_\_\_

4. Are you a U.S. Citizen?  No  Yes

If no, present proof of immigration/employment status.

If yes, but birthplace was not in the U.S., please provide proof of citizenship.

5. Provide name, address, and dates of all employers for the preceding five (5) years.

*Attach additional sheets if necessary.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Have you ever been engaged in the operation of massage services?  No  Yes

If yes, provide name, place, and dates of involvement in such an establishment.

\_\_\_\_\_  
\_\_\_\_\_

7. Have you ever had a massage therapist or therapeutic massage establishment related license in another jurisdiction that was denied, suspended, or revoked within the preceding five (5) years?

No  Yes If yes, provide date, place, and reason \_\_\_\_\_

I hereby certify the information supplied on this application form and all attachments are true and correct. The information requested on this form will be used by the City of Elk River to approve or deny the applicant's license. I understand that falsification or misrepresentation of information submitted on or with my application constitutes grounds for denial of the license. I authorize the City of Elk River to verify any and all of the information requested on this application and to conduct any necessary investigation to assure this application complies with the city's licensing and zoning ordinances.

I acknowledge I have reviewed Chapter 38 Article VI of the Elk River City Code regarding Therapeutic Massage Establishments and Therapists and am familiar with the provisions thereof.

\_\_\_\_\_  
Applicant signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Printed name

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public Signature

{Notary Public Stamp Here}



To be completed by each owner, partner, officer, each general or on-site manager, proprietor, or any other individual or agent in charge of the business premises and by all persons or entities that have a ten (10) percent or more financial interest in the therapeutic massage establishment.

### Background Investigation Consent Release Information to be Used for Business License Processing

As a license applicant, I hereby authorize the Elk River Police Department to conduct a criminal history background investigation to include adult and juvenile records and also a search of my driver's license record, as well as any other searches deemed necessary in the determination of whether my business license application is to be approved. The results of such investigation shall be made public pursuant to appropriate City Council approval or denial of the license application. I understand that I am under no legal obligation to consent to such investigation, but that if I refuse to so consent, my application cannot be processed.

I understand that data I have provided may be shared in whole, or in part, with other agencies within the criminal justice system, by other private and public entities, by other persons for the purpose of conducting a background investigation, and by all individuals in the city who need to know this information.

I release the City of Elk River, the Elk River Police Department, and any of its agents or employees, from any and all liability for its receipt and use of information and records received pursuant to this consent. I further acknowledge that I have carefully read this release, fully understand its terms and legal significance, and execute it voluntarily.

Business Name: \_\_\_\_\_ Type of License Applied for: Massage Establishment

Applicant: \_\_\_\_\_  
(First Name) (Full Middle Name) (Last Name)

Have you ever been known by a name(s) other than the name given above?  Yes  No  
If yes, list name(s) and information concerning dates and places used \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Attach proof of identification as outlined in Section 38-223 (a)(1)(e) of the Elk River City Code. Examples include a driver's license or military id.

Place of Birth: \_\_\_\_\_

Driver's License/State ID#: \_\_\_\_\_ State Issued: \_\_\_\_\_

Residential Address: \_\_\_\_\_  
(Address) (City) (State) (Zip)

List Complete Addresses of Any Prior Residence(s) in the Last 5 Years: *(attach additional sheets if necessary)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Physical Appearance: Sex: \_\_\_\_\_ Race \_\_\_\_\_ Ht \_\_\_\_\_ Wgt \_\_\_\_\_ Eyes \_\_\_\_\_ Hair \_\_\_\_\_

Have you ever been convicted of a felony, gross misdemeanor, or misdemeanor?  Yes  No  
If yes, state jurisdiction, type of violation, and disposition: \_\_\_\_\_

\_\_\_\_\_

These statements are true, correct, and are made with the knowledge that this information may be made public. False disclosures are subject to perjury proceedings and forfeiture of the license application.

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

#### Office Use Only

Background Investigation:  Approved  Denied

Comments: \_\_\_\_\_  
\_\_\_\_\_

Police Chief/designee: \_\_\_\_\_ Date: \_\_\_\_\_



To be completed by each owner, partner, officer, each general or on-site manager, proprietor, or any other individual or agent in charge of the business premises and by all persons or entities that have a ten (10) percent or more financial interest in the therapeutic massage establishment.

### Tennessee Warning Application for Business License

In connection with your request for a license the City of Elk River has asked that you provide information about yourself which is classified as either *private* or *confidential* by the Minnesota Government Data Practices Act (M.S.A. 13.04). Accordingly, the city is required to inform you of the following:

1. The private or confidential information requested includes, but may not necessarily be limited to, the following: *Your social security number or Minnesota business identification number.*
2. The purpose and intended use of the information requested is: *To comply with Minnesota Statutes, Section 270.72.*
3. You are required to supply the requested information.
4. The known consequences of supplying the requested information is as follows: *Loss or denial of the requested license if you owe the State of Minnesota delinquent taxes, penalties or interest.*
5. The known consequences of refusing to supply the requested information is: *Your request for a license cannot be processed.*
6. The following persons and entities are authorized by law to receive the information if provided: *State of Minnesota - Department of Revenue and other government agencies as provided by law.*

*By signing below, I acknowledge that I have read and understand the contents of this notice.*

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Applicant



## CHAPTER 38, ARTICLE VI. – LICENSING AND REGULATION OF THERAPEUTIC MASSAGE

### DIVISION 1. - GENERALLY

#### Sec. 38-191. - Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Accredited Institution means an educational institution holding accredited status with the United States Department of Education or Minnesota Office of Higher Education.

Accredited Program means a professional massage program accredited by the Commission on Massage Therapy Accreditation (COMTA).

City means the City of Elk River, Minnesota.

Massage Therapist means a person who practices or performs Therapeutic Massage on a person for compensation.

State means the State of Minnesota.

Therapeutic Massage means the practice of rubbing, stroking, kneading, tamping, or rolling of the body with the hands or any instrument, for the exclusive purpose of tension, stress, and pain relief, relaxation, increased range of motion, muscle tone improvement, physical fitness, or beautification and for no other purpose, by a person not licensed as a medical doctor, chiropractor, osteopath, podiatrist, nurse, or physical therapist or by an assistant who works solely under the direction of any of such professionals, or by beauticians and barbers who confine their treatments to the scalp, face, and neck.

Therapeutic Massage Establishment means an establishment in the business of providing Therapeutic Massage services either to the public or as a private club.

#### Sec. 38-192. - Purpose of Article.

The purpose of this Article is to prohibit massage businesses and services to the public except those licensed as Therapeutic Massage Establishments and Massage Therapists pursuant to this Article. The licensing regulations prescribed in this Article are necessary in order to prevent criminal activity and to protect the health and welfare of the community. This Article is not intended to impose restrictions or limitations on the freedom of protected speech or expression.

### DIVISION 2. - ESTABLISHMENT AND THERAPIST LICENSES REQUIRED

#### Sec. 38-221. – Licenses required.

It is unlawful for any person or entity to practice Therapeutic Massage or offer to provide massage therapy or operate a Therapeutic Massage Establishment within the City without a license.

#### Sec. 38-222. - Exceptions.

This Article shall not apply to the following establishments or people:

- (a) A health care facility licensed by the State.
- (b) A health care facility owned in whole or in part by the State or any of its agencies.

- (c) A medical clinic or hospital, so long as the massage is performed by a State-licensed physician, chiropractor, osteopath, podiatrist, nurse, or physical therapist, or by an assistant working under the direction of any of such professionals.
- (d) A physical therapy clinic or athletic facility, so long as the massage is performed by a State-licensed physical therapist, athletic director, coach, or trainer.
- (e) A beauty parlor or barbershop, so long as the massage is performed by a State-licensed beautician or barber, and treatment is limited to the scalp, face, and neck.
- (f) Seated chair massage on a fully clothed person.
- (g) 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 and must be identified to the public as a student of massage therapy.

**Sec. 38-223. – License application; investigation.**

All initial Therapeutic Massage Establishment and Massage Therapist applications shall be accompanied by the required fees in the amount established by ordinance. All persons that have a ten percent (10%) or more financial interest in the Therapeutic Massage Establishment business shall be considered an owner and shall be required to have a background investigation. The police department shall conduct the background investigation before consideration of licensure by the Office of the City Clerk. An investigation by the building official shall be conducted of all premises proposed to be licensed and a report shall be submitted stating the premises comply with the building code and Section 38-247 before consideration of licensure by the Office of the City Clerk. Applications thereafter shall be considered and approved or denied by the Office of the City Clerk.

*(a) Therapeutic Massage Establishment Application*

*(1) All applicants, whether they be an individual, corporation, partnership, or other form of organization, must provide, at a minimum, the following:*

- a. The full names, addresses, telephone numbers, dates and place of birth of the owners and operators, including the designated on-site manager or agent of the applicant.
- b. The address of the premises where the Therapeutic Massage Establishment is to be located.
- c. Information as to conviction of any crime or offense committed by anyone listed on the application.
- d. A description of services to be provided.
- e. The applicant's proof of identification, which may be established only by one of the following:
  - 1. A valid driver's license or identification card issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person;
  - 2. A valid military identification card issued by the United States Department of Defense;
  - 3. A valid passport issued by the United States: or
  - 4. In the case of a foreign national, by a valid passport.
  - 5. For purposes of proof of identification, the "applicant" shall mean the on-site manager or agent for a Therapeutic Massage Establishment filling an application and all owners who are natural persons.

- f. The application shall identify the full name, address, date and place of birth, and telephone number of the natural person, designated by the applicant as the Therapeutic Massage Establishments on-site manager or agent, who shall reside within 75 miles of the licensed business. The required residency must be established by the time the license is issued and maintained throughout the existence of the license and all renewals. This designated person shall submit notarized written consent 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. The licensee shall promptly notify the Office of the City Clerk of any change in management.
- g. Proof of Workers' Compensation insurance as required by Minnesota law.
- h. Whether all real estate, personal property taxes, utility bills, assessments, or other financial claims of the City 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.
- i. The name and 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 MN §333.01 and 333.02.
- j. The application shall be signed and sworn to. If the applicant is a natural person, it shall be signed and sworn to by such person. If the applicant is a corporation, an incorporated association, or a limited liability company (LLC), the application shall be signed by an officer or member of said entity, providing proof of authority to sign on behalf of said entity.
- k. 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 years of the date the license application is submitted to the City.
- l. A public liability insurance policy or certificate of insurance from a company authorized to do business in the State, insuring the applicant against any and all loss arising out of the use, operation, or maintenance of the Therapeutic Massage Establishment. The policy of insurance shall be in limits of not less than \$1,000,000.00.
- m. Such other information as the Office of the City Clerk may require.

(2) *Individuals* - In addition to the requirements under Section 38-223 (a)(1), individual applicants must further provide the following:

- a. Whether the applicant and on-site manager or agent have ever used or have been known by a name other than his or her name on the application, and if so, the name or names used and information concerning dates and places where used.
- b. Whether the applicant is a United States citizen or is legally permitted to be in the United States and providing proof thereof.
- c. The street and city addresses at which the applicant and on-site manager or agent lived during the preceding five (5) years.
- d. Names, addresses, and dates of the applicant's and on-site manager's or agent's employers for the preceding five (5) years.
- e. Whether the applicant and on-site manager or agent have ever been engaged in the operation of massage services. If so, they shall furnish information as to the name, place, and length of time of the involvement in such an establishment.

(3) *Partnerships* - In addition to the requirements under Section 38-223 (a)(1), partnership applicants must further provide the following:

- a. The full name(s), address(s), date and place of birth, and financial interest of all general partners and all of the information concerning each general partner that is required of Individual applicants under (a)(2) of this Section.
  - b. The full name(s), address, date and place of birth, and telephone number of the managing partner(s) and the interest of each managing partner in the business.
  - c. A copy of the partnership agreement. Any license issued shall be issued in the name of the partnership.
- (4) *Corporations* - In addition to the requirements under Section 38-223 (a)(1), corporate applicants must further provide the following:
- a. The name of the corporation or business firm, and if incorporated, the state of incorporation.
  - b. A copy of the certificate of incorporation. If the applicant is a foreign corporation, a certificate of authority as required by Minn. Stat. §303.06.
  - c. The name of the manager(s), proprietor(s) or other agent(s) in charge of the business and all of the information concerning each manager, proprietor, or agent that is required of Individual applicants under (a)(2) of this Section.
  - d. A list of all persons who own or have a Ten percent (10%) or more interest in the corporation or organization or who are officers of said corporation or organization, together with their addresses and all of the information regarding such persons that is required of individual applicants under (a)(2) of this Section.
- (b) *Massage Therapist Application*. Each application shall contain and require:
- a. The applicant must live within 75 miles of the licensed business. The required residency must be established by the time the license is issued and maintained throughout the existence of the license and all renewals.
  - b. Name, place, date of birth, and street address of the applicant.
  - c. Whether the applicant has ever used or been known by a name other than the applicant's true legal name, and if so, the name or names and information concerning dates and places used.
  - d. 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.
  - e. Proof of current insurance coverage of \$1,000,000.00 for professional liability in the practice of massage if the therapist will be renting booth space from an establishment.
  - f. Street addresses at which the applicant has lived during the preceding five years.
  - g. The type, name, and location of every business or occupation the applicant has been engaged in during the preceding five years.
  - h. Whether the applicant is currently licensed in other communities to perform massage therapy, and if so, where.
  - i. Whether the applicant has ever been convicted of any crime, or violation of any ordinance, other than a minor traffic offense. If so, the applicant shall furnish information as to the date, location, and offense for which convictions were entered.
  - j. 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 years of the date the license application is submitted to the City.

- k. Whether the applicant has ever been engaged in the operation of massage services. If so, applicant shall furnish information as to the name, place, and length of time of the involvement in such an establishment.
- l. Proof of graduation and completion of 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. 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 or proof of passing the National Certification Exam offered by the National Certification Board for Therapeutic Massage & Bodywork and a minimum of five (5) years of full-time work experience as a Massage Therapist within the United States.

**Sec. 38-224. - Renewal.**

Each license issued under this Article shall expire on December 31 of the year it is issued. Licenses must be renewed annually. The renewal application shall be accompanied by an annual fee in the amount established by ordinance. For a renewal, the applicant must provide any changes in the name, address, criminal record, or other relevant information of any other owner, lessee, operator, or Massage Therapist. The police department may conduct an investigation prior to any renewal. The building official may conduct an inspection of the premises prior to any renewal.

- (a) Application for renewal shall be made at least 60 days before expiration and shall be in the form and manner as required for the original license;
- (b) Upon the timely submission of an application for renewal, the Office of the City Clerk shall renew each license meeting the requirements for the issuance of the original license, no later than 30 days before expiration.

**Sec. 38-225 – Right to hearing**

If a license is denied by the Office of the City Clerk, the City Clerk shall notify the applicant of the determination in writing, including the facts and specific Section or Sections of this Article upon which this determination was made, and their right to a hearing before the City Council. The City Clerk shall follow the hearing procedures outlined in Article II of Section 38 regarding Business Licenses and Business Permits.

**Sec. 38-226 License eligibility.**

- (a) A Therapeutic Massage Establishment license shall not be issued upon any of the following grounds:
  - (1) The proposed fixed location of the Therapeutic Massage Establishment is not in conformance with Chapter 30 of the City code.
  - (2) The owner, operator, or any person who has a ten percent (10%) or more financial interest in the Therapeutic Massage 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, surreptitious intrusion, 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 five (5) years of the date of application.
  - (3) The owner, operator, or any person who has a Ten percent (10%) or more financial interest in the Therapeutic Massage Establishment had a Massage Therapist or Therapeutic Massage Establishment related license in another jurisdiction that was suspended or revoked within five (5) years preceding the date of application.
  - (4) 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 Therapeutic Massage 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 processes relating to the license.

- (5) The on-site manager or agent designated by the applicant is not a resident who lives within 75 miles of the licensed business.
  - (6) The on-site manager or agent designated by the applicant is not a United States citizen and is not legally permitted to be in the United States.
  - (7) The applicant provided false or misrepresented information in the application.
  - (8) The Therapeutic Massage Establishment is proposed to be operated on premises on which property taxes, assessments, or other financial claims by the State, county, or City are due, delinquent, and unpaid, provided the applicant or other entity in which the applicant has an interest has the legal duty to pay said taxes, assessments, or claims due and owing.
  - (9) The applicant does not have general liability insurance coverage in effect as required in this Article.
  - (10) The applicant has been denied a license under this Article within the preceding 12 months.
- (b) A Massage Therapist shall not be issued a license upon any of the following grounds:
- (1) 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, surreptitious intrusion, 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 five (5) years of the date of application.
  - (2) The applicant had a Massage Therapist or Therapeutic Massage Establishment related license in another jurisdiction that was suspended or revoked within five (5) years of the date of application;
  - (3) The applicant is not 18 years of age or older.
  - (4) The applicant does not reside within 75 miles of the licensed business.
  - (5) The applicant is not a United States citizen and is not legally permitted to be in the United States;
  - (6) The applicant has not provided proof of graduation and completion of 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. 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 or proof of passing the National Certification Exam offered by the National Certification Board for Therapeutic Massage & Bodywork and a minimum of five (5) years of full-time work experience as a Massage Therapist within the United States.
  - (7) The applicant provided false or misrepresented information on the application.
  - (8) The applicant has been denied a license under this Article within the preceding 12 months.
  - (9) The establishment is not licensed or in compliance with the State Building and Fire Codes in addition to this code.

### **DIVISION 3. Operational regulations and restrictions**

- (a) The act of any employee of the licensee is deemed to be the act of the licensee. The licensee shall be responsible for all acts and conduct attributable to and in connection with massage therapy services provided by the licensee or occurring on the premises of the Therapeutic Massage Establishment.
- (b) The licensee and all employees of the licensee shall at all times be fully clothed and shall not expose his/her breast, buttocks, anus, or genitals.
- (c) At no time shall the Massage Therapist touch or offer to touch or massage the penis, scrotum, mons veneris, vulva, or vaginal area of any customer or person inquiring of massage therapy services.

- (d) No beer, liquor, narcotic drug, or controlled substances, as such terms are defined by State statutes or the City Code, shall be permitted on the licensed premises.
- (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) Only Massage Therapists who are licensed by the City shall practice or provide Therapeutic Massage services for a licensed Therapeutic Massage Establishment or within the licensed Therapeutic Massage Establishment premises as identified in its license.
- (g) The licensee shall comply with any and all provisions of this Article, all applicable provisions of the City Code, and all applicable State laws and regulations.
- (h) It is unlawful for any licensee under this Article to allow the licensed premises to be open for business or allow patrons to be on the premises between the hours of 9:00 p.m. and 6:00 a.m. of the next day. The hours of operation must be displayed in a conspicuous place in the lobby and/or in any front window clearly visible from outside the Therapeutic Massage Establishment. All massages must conclude at or before 9:00 p.m. Support activities, such as cleaning, maintenance, and bookkeeping are allowed outside of business hours.
- (i) The licensed premises shall, during all operating hours, be open to inspection by any building, zoning, code or police officer to determine whether this Article and all other laws are being observed. All persons, as a condition to being issued such license, consent to such inspections by such officers. It is unlawful for any licensee or agent or employee of a licensee to hinder or prevent a City inspecting officer from making such inspection. All employees must, upon demand of any police officer, produce correct identification.
- (j) If a licensed Therapeutic Massage Establishment's on-site 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.
- (k) All licensees shall post current licenses in a prominent place.
- (l) No license issued under this Article may be transferred. Therapeutic Massage Establishment licenses shall terminate upon any change in officers' or ownership interests of the Licensee where said officer or owner has a ten percent (10%) or more financial interest in the Therapeutic Massage Establishment license.
- (m) Advertising of any potential unlawful or erotic conduct at the licensed establishment shall be prohibited.
- (n) The sale, use or possession of adult-oriented merchandise, including sex toys and/or condoms, in any part of the Therapeutic Massage Establishment, shall be prohibited.
- (o) No touching, fondling, or other intentional contact with the genitals, breasts of a female patron, or anus of any patron. The person who is receiving a massage shall at all times be properly covered with non-transparent material.
- (p) No sexual activity.
- (q) The Therapeutic Massage Establishment shall post their rates for service in a prominent place in the entrance or lobby of the business. No Therapeutic Massage Establishment owner or manager shall permit, and no employee or independent contractor of the Therapeutic Massage Establishment shall offer to perform, any massage therapy services, or charge any fees, other than those posted.
- (r) Violation of any law or regulation relating to the license issued under this Article, or any building, safety or health regulation, shall be grounds for suspension or revocation of any license, as determined by the City Council.
- (s) It is unlawful to allow anyone to live on the licensed premises of a business not located in a residential district. Therapeutic Massage Establishment license is only effective for the compact and contiguous space specified in the approved license application. If the licensed premises are altered in any way, the licensee shall inform the Office of the City Clerk within ten (10) business days.

### **Sec. 38-245 Prohibited business or operations**

No Therapeutic Massage Establishment shall be used or operated as or in conjunction with an adult use business as defined in this Code.

### **Sec. 38-246. - Compliance with building regulations.**

All persons who hereafter construct, extensively remodel, or convert buildings or facilities for use as Therapeutic Massage Establishments which are open to the public shall comply with the requirements of the State fire and building code and all amended codes. To the extent the building code or fire code requirements conflict with the provisions of this Article, the more restrictive provision shall govern.

### **Sec. 38-247. - Design and maintenance of premises.**

- (a) Floors, walls, and equipment in massage rooms, restrooms, bathrooms, janitor's closets, hallways, and reception areas used in connection therewith must be kept in a state of good repair and clean at all times. Linens and other materials shall be stored at least 12 inches off the floor. Clean towels and washcloths must be made available for each customer.
- (b) If massage is performed in individual rooms, the doors to the individual massage rooms shall not be equipped with any locking device and shall not be blocked or obstructed from either side.
- (c) Only professional massage tables that are generally accepted in the professional massage industry may be placed in massage rooms and utilized for massage therapy. No futons, beds, mattresses, waterbeds, or products not compliant with local and state laws are allowed in the Therapeutic Massage Establishment.
- (d) No portion of the Therapeutic Massage Establishment shall be used for sleeping/residential purposes.

### **Sec. 38 - 248 Sanctions for violations**

- (a) A license issued under this Article may be revoked or suspended, not issued or renewed upon a showing that the licensee, or its owners, managers, employees, or agents, or any Massage Therapist practicing Therapeutic Massage on the licensed premises or premises proposed to be licensed:
  - (2) Has not complied with all laws of sanitation.
  - (3) Has violated any law or regulation relating to health, building, building maintenance, or safety, or other provisions of the City Code or State law.
  - (4) Has violated any of the provisions of this Article.
  - (5) Would be inconsistent with the comprehensive development plans of the City; or
  - (6) Would otherwise have a detrimental effect upon the property in the vicinity.

### **Sec. 38-249 – Violations and Penalty**

#### **Aiding or Abetting Violation.**

It is unlawful for any person to commit, attempt to commit, conspire to commit, or aid or abet in the commission of any act constituting a violation of this Article, whether individually or in connection with one or more persons or as a principal, agent or accessory.

#### **Inducing Violation.**

It is unlawful for any person to falsely, fraudulently, forcibly or willfully induce, cause, coerce, require, permit or direct another to violate any of the provisions of this Article.

**Criminal Penalty for Violations**

Any person or entity violating any provision of this Article is guilty of a misdemeanor and upon conviction, shall be subject to the penalties set forth in the Minnesota Statutes. Each day the violation continues shall constitute a new and separate offense. Each violation of this Article shall constitute a separate offense. Conviction of a violation of this Article, while not required, may be grounds for the suspension or revocation of any license issued under this Section.