REQUEST FOR COUNCIL ACTION

Date: April 10, 2023 Item No.: 7.b

Department Approval City Manager Approval

Item Description: Review and Consider an Ordinance Amending City Code Chapter 309: Massage

Therapy

BACKGROUND

The City Council has discussed the regulation of massage therapists and massage therapy establishments (Chapter 309) several times over the past 18 months.

On November 8, 2021, the City Council adopted Ordinance #1607 (Attachment A) that amended Chapter 309 in the following ways:

- Cleaned up existing language to specify that massage therapy establishments that do not comply with federal, state, or local laws may have their license denied, revoked, or not renewed.
- Added language stating that massage therapy establishments shall not have an unlicensed person conduct massage therapy on their premises
- Limited the amount of massage therapy establishment licenses allowed in Roseville to 25.

The City Council directed staff look more broadly at Chapter 309 and bring back other suggested changes at a future date.

On July 25, 2022, staff brought back suggested amendments to Chapter 309. The changes proposed included:

- Prohibiting the transfer of existing Massage Therapy Establishment Licenses
- Allowing for additional information to be required as deemed necessary by the City beyond what is identified in Chapter 309 when a person applies for a massage therapists license
- Allowing other qualified service providers to conduct criminal background checks as part of the licensing review instead of solely relying on the Police Department
- Determining a maximum number of massage therapy establishments in the city. Ordinance #1607 capped the amount of massage therapy establishments to 25

Based on discussion of the City Council and concerns raised by massage therapy establishments with the language prohibiting transfers of Massage Therapy Establishment Licenses, the City Council tabled action on language regarding transfer of licenses. However, the City Council did amend Chapter 309 to limit the number of massage therapy establishments from 25 to 24 to reflect the actual amount establishment licenses in place in Roseville and to allow for additional information from massage therapist applicants to be required as deemed necessary by the City. (Attachment B-Ordinance #1615)

Subsequently, staff has been doing research and working on language with the City Attorney. As a result of that work, staff is bringing forward additional changes to Chapter 309, including language around the transfer of massage therapy establishment licenses. The proposed changes are as follows and outline in Attachment C:

- Added Section 309.01 Purpose and Findings to better articulate the rationale and need for the licensing of massage therapy establishments and massage therapists
- Made adjustments to Section 309.02 including adding a definition of accredited institutions
- Sections 309.03 (Licenses Required, Exceptions), 309.04 (Granting, Denying, Suspending or Revoking Massage Therapy Establishment Licenses), and 309.05 (Granting, Denying, Suspending or Revoking Massage Therapist Licenses), were reorganized for clarity.
- New language was added in Section 309.03 (B), to list exceptions for when a Massage Therapy Establishment License or a Massage Therapist License is not required
- New language was added in Section 309.04 (G) that states the owner/operator of the massage therapy establishment does not need to be licensed as a massage therapist if they do not practice or administer massage to the public
- Section 309.04 (H) was amended to change the total amount of Massage Therapy Establishment Licenses that are allowed in the city from 24 to 10 and the effective date for when the new cap begins as May 1, 2023. It is felt that having 10 massage therapy establishments will allow for better oversight of those businesses by licensing staff and the Police Department. It is expected to take some time before the total number of massage therapy establishments reaches 10 as the current establishments will be allowed to remain in business and renew as long as they meet the provisions of Chapter 309
- New language was added to Section 309.04(I) to state that failure of an establishment to renew their license is considered a new application and is subject to the cap of total licenses
- New language was added to Section 309.05 (A) to require applicants for massage therapist
 licenses to apply in person at city hall with proof of identity on a government issued document,
 provide proof of graduation from an accredited institution as defined in the chapter, clarifies that
 course work of a minimum of 600 hours must be completed from one institution in required
 subject areas
- New language was added to Section 309.05 (D) regarding conditions for denial of a massage therapist license including unlawful conduct and violations of law relating to the practice of massage therapy regardless of whether such conduct resulted in criminal conviction.
- New language was added to 309.06 (Restrictions and Regulations for Massage Therapy Establishments and Massage Therapist Licenses) in several areas that are as follows:
 - Requirement of a color photo to be displayed with the therapist license at the massage therapy establishment
 - Establishing the right of the City to enter and inspect the licensed premise during open business hours
 - o Requiring the business to only provide services as posted in the business
 - o Requiring the business to be staffed during posted business hours
 - o Prohibiting the massage of certain body parts
 - o Requiring the city to be notified if the licensed premises is enlarged, altered, or extended
 - Requiring the massage therapist to work for or own a massage therapy establishment licensed by the city
 - o Prohibits the employment of unlicensed massage therapist by establishments
 - o Requires proof of local residency (Minnesota or Wisconsin) for the massage therapist establishment managing partner or manager and for massage therapists
- New language was added to Section 309.06 (D) regarding the transfer of an existing Massage Therapy Establishment License. A Massage Therapy Establishment License may be transferred to another person provided they meet the requirements to obtain a license, or be transferred to another location provided the license holder files an application and the location meets the

location requirements. However, a transfer of a Massage Therapy Establishment License is not permitted if any of the following apply:

- o The license to be transferred has received notice of the City's intention to revoke such license
- o The transfer is to be made after May 1, 2028
- There already was a transfer of the establishment license after May 1, 2023

In effect, the new language allows for only one transfer of a massage therapy establishment in a five year period ending on May 1, 2028 as long as revocation action is not being considered for the establishment and the new license request meets the requirements for Chapter 309

• New language in Section 309.07 stipulates that civil remedies at law or adverse licensing actions can also be utilized along with filing of misdemeanor charges for violations of Chapter 309

Overall, the proposed changes to Chapter 309 will provide a better opportunity for the City to address criminal activity occurring in establishments such as ignoring licensing requirements, sexual assaults by massage therapy establishment employees, and suspected human trafficking.

Combatting human trafficking has been a priority of the Roseville Police Department (RPD) for the past several years. In July 2022, the Roseville Police Department became an affiliate to the Bureau of Criminal Apprehension's Human Trafficking Task Force. The Roseville Police Foundation has also helped fund overtime details to target human trafficking, including illicit massage businesses operating in our community. The partnership and funding have aided RPD in disrupting several cases of human trafficking in our community and leading to numerous arrests and criminal charges.

Even with increased awareness and targeted police enforcement, the illicit massage industry continues to be pervasive and prevalent across the county. This also holds true in Roseville. Even with RPD's efforts to combat these businesses in our community, the illicit massage businesses (often hidden in plain sight) has continued to thrive.

Human trafficking in illicit massage businesses is complex and changing. These cases can be very difficult to investigate and law enforcement and prosecutors often struggle to build solid cases to hold the traffickers accountable. Even when acting on tips and information from the community, gaining the evidence or cooperation needed is often very difficult. It can be challenging to gain cooperation from individuals patronizing the businesses since often they fear being publically exposed or facing criminal charges for their involvement. In addition, the brick and mortar storefronts and business licensing provide cover for sex buyers who can easily claim they were only seeking legitimate massages.

Getting victims to cooperate is even more challenging due to cultural shame, force, and coercion at the hands of the traffickers. Victim's lives are often entirely controlled by the business owners and they have cultural and language barriers, fear of law enforcement, and limited knowledge of their rights and support available to them.

Law enforcement will continue to investigate these cases and do all we can to hold the traffickers accountable. However, law enforcement cannot do it alone and new regulations are needed to help close loopholes and disrupt trafficking operations in our community.

POLICY OBJECTIVE

Among the City's Community Aspirations are to ensure that the community is safe and law-abiding. As mentioned above, criminal activity can occur at massage therapy establishments if proper

regulations are not in place. The proposed changes to Chapter 309 will provide for stricter requirements for both massage therapy establishments and massage therapists that will limit the opportunity for criminal activities to occur. In the addition, the changes to Chapter 309 will limit the proliferation of massage therapy establishment and allow for better oversight of the establishments by licensing staff and the Police Department that will ensure that massage therapy establishments are law-abiding and safe.

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BUDGET IMPLICATIONS

There is no immediate financial impact on the changes to Chapter 309. Eventually, with the limit on the Massage Therapy Establishment Licenses, the city will collect less in license fees.

RACIAL EQUITY IMPACT SUMMARY

According to the findings in 'Human Trafficking Task Force Report' 1, "Human trafficking is prevalent within the massage profession. Research shows that as many as 6,500 illicit (massage) businesses are active in the United States." The report further states that human trafficking is linked with fraud in massage therapist education and in the licensing pathways. Human trafficking in the massage profession is part of a much larger international problem that creates slavery, bondage, intimidation, violence and trauma. The Trafficking Victim Protection Act of 2004 found that traffickers primarily target women and girls, who are disproportionately affected by poverty, have limited access to education, suffer chronic unemployment, discrimination, and lack economic opportunities in their countries of origin. Traffickers lure women and girls into their networks through false promises of decent working conditions.

STAFF RECOMMENDATION

Staff recommends that the City Council review the proposed amendments to Chapter 309 and provide feedback. If the City Council finds the amendments acceptable, staff recommends that the ordinance amendment and summary be passed. The ordinance amendment has been posted to the City website for the required 10 days.

REQUESTED COUNCIL ACTION

The City Council should review the proposed amendments to Chapter 309 and provide feedback. If the City Council finds the amendments acceptable, a motion to approve an ordinance amending City Code Chapter 309: Massage Therapy as shown in Attachment D and the Ordinance Summary shown in Attachment E would be appropriate.

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Prepared by: Patrick Trudgeon, City Manager

Attachments:

A: Ordinance #1607

B: Ordinance #1615

C: Draft Ordinance (redlined)

D: Draft Ordinance (clean copy)

E: Ordinance Summary

F: Excerpt of Minutes from November 8, 2021 meeting

G: Excerpt of Minutes from July 25, 2022 meeting

H: Presentation

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¹ Human Trafficking Task Force Report. *Federation of State Massage Therapy Boards*. https://www.fsmtb.org/media/1606/httf-report-final-web.pdf 2017.

ORDINANCE NO. 1607

AN ORDINANCE AMENDING TITLE 3, SECTION 309 MASSAGE THERAPY

The City Council of the City of Roseville does ordain:

SECTION 1: Title 3, Section 309.03 (D), (F) and (G), Granting, Denying or Revoking of Massage Therapy Establishment Licenses of the Roseville City Code is amended to read as follows:

- D. History of Violations Compliance with Laws: Licenses may be denied, revoked, or rescinded not renewed if the applicant, licensee, or employee, contractor, or agent of the same fails to comply with, or have a history of violations of the laws or ordinances federal, state, or local laws which apply to health, safety or moral turpitude.
- F. Unlicensed Operators: No Massage Therapy Establishments may permit any person to conduct massage therapy on the licensed premises who is not fully licensed under this Chapter as a Massage Therapist.
- G. Total Licenses: After November 9, 2021, no new Massage Therapy Establishment licenses shall be issued and no Massage Therapy Establishment licenses shall be reinstated following denial, revocation, or non-renewal unless fewer than twenty-five (25) total Massage Therapy Establishment licenses exist in the City. Thereafter, the total Massage Therapy Establishment licenses in the City shall not exceed twenty-five (25) at any one time.

SECTION 2: Effective date. This ordinance shall take effect upon its passage and publication.

Passed by the City Council of the City of Roseville this 8th day of November 2021.



ATTEST:

BY:

Patrick Trudgeon, City Manager

CITY OF ROSEVILLE

BY:

Daniel J. Roe, Mayor

ORDINANCE NO. 1615

AN ORDINANCE AMENDING TITLE 3, SECTION 309 MASSAGE THERAPY

The City Council of the City of Roseville does ordain:

SECTION 1: Title 3, Section 309.03 (G), Granting, Denying or Revoking of Massage Therapy Establishment Licenses of the Roseville City Code is amended to read as follows:

G. Total Licenses: After November 9, 2021 July 25, 2022 no new Massage Therapy Establishment licenses shall be issued, and no Massage Therapy Establishment licenses shall be reinstated following denial, revocation, or non-renewal unless fewer than twenty-five (25) twenty-four (24) total Massage Therapy Establishment licenses exist in the City. Thereafter, the total Massage Therapy Establishment licenses in the City shall not exceed twenty-five (25) twenty-four (24) at any one time.

SECTION 2: Title 3, Section 309.04 (A) and (C), Licenses for Massage Therapists of the Roseville City Code is amended to read as follows:

- A. Application for License: Any person desiring to be licensed as a massage therapist shall file an application on forms provided by the City Manager. The application shall contain such information as the City Manager may require, including, <u>but not limited to</u>: (Ord. 1329, 11-14-05)
 - 1. The applicant's full name, address, social security number and written proof of age.
 - 2. The name and address of the licensed massage therapy establishment by which the applicant expects to be employed.
 - 3. A statement concerning whether the person has been convicted of or entered a plea of guilty to any crime or ordinance violation and, if so, information as to the time, place and nature of such crime or offense.
 - 4. Proof that the applicant meets the following educational requirements:
 - a. A diploma or certificate of graduation from a school approved by the American Massage Therapist Association or other similar reputable massage association; or
 - b. 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.
 - c. Each applicant shall also furnish proof at the time of application of a minimum of 600 hours of successfully completed course work in the following areas:
 - (1) The theory and practice of massage, including, but not limited to, Swedish, Esalen, Shiatsu and/or foot reflexology techniques; and
 - (2) Anatomy, including, but not limited to, skeletal and muscular structure and organ placement; and
 - (3) Hygiene.

C. Review of Application: Notwithstanding Section 301.02 of City Code, License applications shall be reviewed and decided upon by the City Manager or designee and shall include a review by the Police Department or other qualified service providers in conducting and completing criminal background checks.

SECTION 3: Effective date. This ordinance shall take effect upon its passage and publication.

Passed by the City Council of the City of Roseville this 25th day of July, 2022.

(SEAL)

CITY OF ROSEVILLE

BY:

Daniel J. Roe, Mayor

ATTEST:

BY:

Patrick Trudgeon, City Manager

1 2		City of Roseville ORDINANCE NO	
3 4		AN ORDINANCE AMENDING	
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6		TITLE 3 Chapter 309	
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8		DNANCE AMENDNG TITLE 3 CHAPTER 309 OF THE ROSEVILE	
9	CITY CO	DE TO AMEND REQUIREMNTS FOR MASSAGE ESTALBISHMENT	
10 11		AND MASSAGE THERAPIST LICENSES	
11 12	THE CITY	COUNCIL OF CITY OF ROSEVILLE ORDAINS:	
12 13	THE CITT	COUNCIL OF CITT OF ROSEVILLE ORDAINS.	
13 14	SEC	CTION 1: Title 3 Chapter 309 of the Roseville City Code is amended, restated	
15		renumbered to read as follows:	
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17	SECTION:		
18	309.01:	Purpose and Findings	
19	309.02:	Definitions	
20	309.03:	License Required, Exceptions for Massage Therapy Establishment	
21	309.04:	Practice of Massage Therapy Only by Licenses Persons Granting, Denying,	
22		Suspending, or Revoking Rescinding of Massage Therapy Establishment	
23		Licenses	
24	309.05:	Revocation or Suspension of License Granting, Denying, Suspending, Or	
25		Revoking Of Massage Therapist Licenses	
26	309.06:	Restrictions and Regulations For Massage Therapy Establishments And	
27		Massage Therapist Licenses	
28	309.07:	Violations, Penalty	
29	200 01 PV	PROGE AND ENTRAGE	
30	309.01: PU	RPOSE AND FINDINGS	
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32		e of this Chapter of the city code is to prohibit massage businesses and services	
33	to the public except those licensed as massage therapy establishments and massage		
34	therapists pursuant to this Chapter. The licensing regulations prescribed herein are		
35 36	necessary in order to prevent criminal activity and to protect the health and welfare of the community. The purpose of this Chapter is not to impose restrictions or limitations on the		
30 37		protected speech or expression.	
38	irección or	protected speech of expression.	
39	The City C	Council makes the following findings regarding the need to license massage	
40	therapy establishments and massage therapists and to prohibit all other types of massage		
41		and services to the public.	
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43	<u>A.</u>	Persons who have bona fide and standardized training in therapeutic massage,	
44		health and hygiene can provide a legitimate and necessary service to the general	
45		public.	

- В. Health and sanitation regulations governing massage therapy establishments 46 and massage therapists can minimize the risk of the spread of communicable 47 diseases and can promote overall health and sanitation. 48
 - <u>C.</u> License qualifications for the restrictions on massage therapy establishments and massage therapists can minimize the risk that such businesses and persons will facilitate prostitution and other criminal activity in the community.
 - Massage services provided by persons with no specialized and standardized <u>D.</u> training in massage can endanger citizens by facilitating the spread of communicable diseases, by exposing citizens to unhealthy and unsanitary conditions, and by increasing the risk of personal injury.
 - Massage businesses which employ persons with no specialized and E. standardized training can tax city law-enforcement services, because such businesses are more likely to be operated as fronts for prostitution and other criminal activity than operations established by persons with standardized training. Fewer of such businesses will reduce the drain on law enforcement.
 - F. The training of professional massage therapists at accredited institutions is an important means of ensuring the fullest measure of protecting the public health, safety and welfare.

309.02 DEFINITIONS:

As used in this Chapter, the following words and terms shall have the meanings ascribed to them in this Section:

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

CHAIR MASSAGE: A massage provided to a fully-clothed individual, and limited to the neck, shoulders, arms, and back, where the massage is not provided in a massage therapy establishment; and provided the individual giving the massage meets the requirements specified in Section 309.05(A) 309.04 (A). (Ord. 1329, 11-14-05)

MASSAGE THERAPIST: A person who practices or administers massage therapy to the public.

MASSAGE THERAPY: The rubbing, stroking, kneading, tapping or rolling of the body with the hands or other parts of the body for the exclusive purposes of relaxation, physical fitness or beautification and for no other purpose. The practice of massage therapy is hereby declared to be distinct from the licensed practice of medicine, osteopathy, chiropractic, physical therapy, podiatry and nursing, as well as athletic coaches and trainers. Persons engaged in those professions are exempt from the provisions of this Chapter.

MASSAGE THERAPY ESTABLISHMENT: Any room, or premise wherein a person may receive a massage from a licensed massage therapist for a fee; where massages are given on more than 14 calendar days in any given calendar year that does not meet the description of 309.03(B). (Ord. 1329, 11- 14-05)

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92 SANITARY: Free from the vegetative cells of pathogenic microorganisms. (Ord. 1142, 6-93 13-1994)

309.02 LICENSE FOR MASSAGE THERAPY ESTABLISHMENT

- A. License Required: No person shall engage in the business of operating a massage therapy establishment within the City without first having obtained the required license.
- B. Application Fee: The initial application for a license shall be made by completing an application form provided by and containing such information as required by the City Manager and by paying a nonrefundable application fee, as established by the City Fee Schedule in Section 314.05. (Ord. 1329, 11-14-05)
- C. Separate License Required Fee: A separate license shall be obtained for each place of business, the fee for which shall be as established by the City Fee Schedule in Section 314.05. (Ord. 1329, 11-14-05)

309.03 LICENSE REQUIRED, EXCEPTIONS.

- A. <u>License Required: No person shall engage in the business of operating a massage therapy establishment or perform massage therapy in the City without first having obtained the required license.</u>
- B. Massage Therapy Establishment Exceptions: A massage therapy establishment license is not required for entities duly licensed or operating as a hospital, nursing home, hospice, sanitarium or group home established for the hospitalization or care of human beings provided the massage is administered only to the residents or patients of the facility as part of their care and not provided as a part of a separate service.
- C. <u>Massage Therapy License Exceptions: A massage therapy license is not required for the following persons:</u>
 - 1. Persons duly licensed as a doctor 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 as it prepares the patient for a medical procedure or complements a medical procedure previously performed on the patient and not provided as part of a separate and distinct massage business.
 - 2. Persons working solely under the direction and control of a duly licensed doctor by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, podiatry, dentistry or a medical professional licensed under M.S. Chapters 147 and 148, as they may be amended from time to time, provided the massage is administered on the premises of the medical business;
 - 3. 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.

309.04 GRANTING, DENYING, <u>SUPENDING</u> OR REVOKING OF MASSAGE THERAPY ESTABLISHMENT LICENSES

- A. Application Fee: The initial application for a license shall be made by completing an application form provided by and containing such information as required by the City Manager and by paying a nonrefundable application fee, as established by the City Fee Schedule in Section 314.05. (Ord. 1329, 11-14-05)
- B. <u>Separate License Required Fee: A separate license shall be obtained for each place of business, the fee for which shall be as established by the City Fee Schedule in Section 314.05. (Ord. 1329, 11-14-05)</u>
- C. Zoning Compliance: Massage Therapy Establishment licenses may be granted only to establishments associated with and operating within the confines of and incidental to a properly zoned beauty parlor (salon), health club, office, shopping mall, or similar areas open to the public. (Ord. 1329, 11-14-05)
- D. Building, Safety and Sanitation Regulations: Licenses may be denied, revoked, or not renewed if the premises of the massage therapy establishments do not meet the requirements of the City Council, and of the building, safety and sanitation regulations of the City and State.
- E. Fraud or Deception: Licenses may be denied, revoked, or not renewed if there is any fraud or deception involved in the license application.
- F. Compliance with Laws: Licenses may be denied, revoked, or not renewed if the applicant, licensee, or employee, contractor, or agent of the same fails to comply with federal, state, or local laws which apply to health, safety or moral turpitude. (Ord 1607, 11-08-2021)
- G. Unlicensed Operators: No Massage Therapy Establishments may permit any person to conduct massage therapy on the licensed premises who is not fully licensed under this Chapter as a Massage Therapist. (Ord 1607, 11-08-2021)
- G. The owner/operator of a Massage Therapy Establishment need not be licensed as a massage therapist if he or she does not at anytime practice or administer massage to the public.
- H. Total Licenses: After July 25, 2022 May 1, 2023, no new Massage Therapy Establishment licenses shall be issued and no Massage Therapy Establishment licenses shall be reinstated following denial, revocation, or non-renewal unless fewer than twenty-four (24) ten (10) total Massage Therapy Establishment licenses exist in the City. Thereafter, the total Massage Therapy Establishment licenses in the City shall not exceed twenty-four (24) ten(10) at any one time. (Ord 1607, 11-08-2021) (Ord 1615, 07-25-2022)
- I. Failure to renew requires new application. If a current license holder fails to renew such license when required, such license holder must then submit a new license application. In such case, the new application will be subject to the cap on total licenses.

J. Additional Conditions: The City Council may attach such reasonable conditions to the license as it, in its sole discretion, deems to be appropriate. (Ord. 1142, 6-13-1994) (Ord. 1283, 6-16-03)

309.05: <u>GRANTING</u>, DENYING, <u>SUSPENDING</u>, <u>OR REVOCATION REVOKING</u> OF MASSAGE THERAPIST LICENSES:

- A. Application for License: Any person desiring to be licensed as a massage therapist shall file an application in person at city hall on forms provided by the City Manager. The application shall contain such information as the City Manager may require, including, but not limited to: (Ord. 1329, 11-14-05) (Ord 1615 07-25-2022)
 - 1. The applicant's full name, address, social security number and written proof of age issued by a government agency which may not be expired.
 - 2. The name and address of the licensed massage therapy establishment by which the applicant expects to will be employed.
 - 3. A statement concerning whether the person has been convicted of or entered a plea of guilty to any crime or ordinance violation and, if so, information as to the time, place and nature of such crime or offense.
 - 4. Proof that the applicant meets the following educational requirements:
 - a. A diploma or certificate of graduation from—an Accredited Institution as defined herein. a school approved by the American Massage Therapist Association or other similar reputable massage association; or
 - b. 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.
 - b. Each applicant shall also furnish proof at the time of application of a minimum of 600 hours of successfully completed course work by a single provider through an official copy of the transcript of academic record from the school issuing the training, degree or diploma in the following areas:
 - 1) The theory and practice of massage, including, but not limited to, Swedish, Esalen, Shiatsu and/or foot reflexology techniques; and
 - 2) Anatomy, including, but not limited to, skeletal and muscular structure and organ placement; and
 - 3) <u>Anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice.</u>
- B. Fee: The annual license fee for a massage therapist is as established by the City Fee Schedule in Section 314.05. Ord. 1329, 11-14-05)
- C. Review of Application: Notwithstanding Section 301.02 of City Code, License applications shall be reviewed and decided upon by the City Manager or designee and shall include a review by the Police Department or other qualified service providers in conducting and completing criminal background checks. (Ord 1615, 07-25-2022)

228	D.	Denia	al of Application: The license application may be denied for any of the
229		follov	ving reasons:
230		1.	Fraudulent Statements: The application contains false, fraudulent, or
231			deceptive statements.
232		2.	Prior Conviction: The applicant has been convicted of or entered a plea
233			of guilty within the previous three years to a violation of this Chapter or
234			of any other law regulating the practice of massage, or of any law
235			prohibiting criminal sexual conduct, prostitution, pandering, or indecent
236			conduct or keeping of a disorderly house.
237		3.	Noncompliance: The applicant has not complied with a provision of this
238			Chapter.
239		4.	Underage: The applicant is less than eighteen (18) years of age. (Ord.
240			1142, 6- 13-94)
241		5.	Prior Denial, Revocation, or Suspension: The applicant has had a
242			massage therapist license denied, revoked, or suspended in another
243			jurisdiction.
244		6.	Violation of Chapter: A violation of any provision of this Chapter.
245		7.	Unlawful Conduct. Any unlawful conduct including, but not limited to,
246			criminal sexual conduct, prostitution, or indecent conduct, regardless of
247			whether such conduct resulted in a criminal conviction.
248		8.	Violations of Law Relating to Practice of Massage Therapy. Any
249			violation of laws or ordinances relating to the practice of massage
250			therapy, regardless of whether such conduct resulted in a criminal
251			conviction.
252		9.	In the event of a license denial based solely or in part on a criminal
253			conviction, the City will follow the process outlined in Minnesota
254			Statutes Chapter 364.
255		10.	Lack of Skill: Exhibition of a demonstrable lack of skill in the practice
256			of massage therapy. (Ord. 1142, 6-13-94)
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258	309.05: D	ENYI	NG, OR REVOCATION OF MASSAGE THERAPIST LICENSES:
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260	A massag	e thera	pist license may be denied or revoked for any of the following reasons:
261	A.	- Appli	cation Fraud: Fraud, deception or misrepresentation in connection with
262		the re	gistration application.
263	B	-Viola	tion of Chapter: A violation of any provision of this Chapter.
264	C.	Crimi	inal Conviction: Conviction of a criminal sexual conduct, prostitution,
265		pande	ering, indecent conduct or keeping a disorderly house.
266	D.		iction Arising out of Practice of Massage Therapy: Conviction of any
267		crime	or ordinance violation arising out of the practice of massage therapy.

309.06: RESTRICTIONS AND REGULATIONS <u>FOR MASSAGE THERAPY</u> ESTABLISHMENTS AND MASSAGE THERAPIST LICENSES:

massage therapy. (Ord. 1142, 6-13-94)

E. Lack of Skill: Exhibition of a demonstrable lack of skill in the practice of

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- 273 A. Display of License: Any person registered as a massage therapist hereunder 274 shall display such license, with a color photo or a true copy thereof, in a prominent place at such person's place of employment on the premises at which 275 276 the therapist is employed.
- B. Identification: Upon demand of any police officer at the place of employment, 277 any person licensed hereunder shall produce correct identification, identifying 278 279 himself/herself by his/her true legal name and correct address.
 - C. Inspection: During business hours, all massage therapy establishments shall be open to inspection by City Building and License Inspectors, Health Officers and police officers. The issuing authority, or designee, and/or the City Police Department shall have the right to enter and inspect the licensed premise during the hours in which the licensed premise is open for business.
 - D. Therapist, Change of Location: Any person licensed hereunder shall practice massage only at such location or locations as are designated in the license. Any person registered hereunder shall inform the City Manager, in writing, of any change in location prior to its occurrence.
 - Transfer of establishment license. A Massage Establishment License may be D. transferred by a license holder to another person at the licensed location, provided that the transferee files a license application and meets the requirements to hold a license. A Massage Establishment License may be transferred by a license holder to another location to be operated by that license holder, provided that the license holder files a license application and the new location meets the location requirements. Notwithstanding the ability to transfer an establishment license mentioned above, no transfer shall be permitted if any of the following apply:
 - The license to be transferred has received notice of the City's intention to revoke such license, unless, after reasonable notice and an opportunity for the licensee to be heard, the license is not revoked.
 - b. The transfer is to be made on or after May 1, 2028.
 - c. There was a transfer of the Massage Establishment License at that location after May 1, 2023.
 - E. Hours: No customers or patrons shall be allowed to enter or remain on the licensed premises after 9:00 P.M. or before 8:00 A.M. daily.
 - F. The establishment may only provide services during business hours which must be posted on the door. The business must be staffed at all times during such posted hours.
- G. Alcohol or Drugs Prohibited: No beer, liquor, narcotic drug or controlled substance, as such terms are defined by State statutes or the City Code shall be 310 permitted on licensed premises.
- Η. Violation of Building, Safety or Health Regulations: Violation of any law or 312 regulation relating to building, safety or health shall be grounds for revocation 313 or any license. 314
- I. Locks on Doors: There shall be no locks on doors of massage rooms. 315
- J. Appropriate Covering Required: 316
- 317 Patron: Whenever a massage is given, it shall be required by the massage therapist that the person who is receiving the massage shall 318

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- have her breasts and his/her buttocks and genitals covered with a nontransparent material. For purposes of receiving a chair massage, patrons must stay fully-clothed at all times. (Ord. 1329, 11-14-05)
 - b. Therapist: Any massage therapists performing any massages shall at all times have her breasts and his/her buttocks and genitals covered with a nontransparent material. (Ord. 1142, 6-13-94)
 - K. <u>Massage of certain body parts prohibited.</u> At no time shall the massage therapist intentionally massage or offer to massage the penis, scrotum, mons veneris, vulva or vaginal area of a person.
 - L. With the exception of chair massages, all other types of massages shall take place in a private room subject to the conditions and restrictions noted above. (Ord. 1329, 11-14-05) (Ord. 1529, 6/19/2017)
 - M. <u>Licensed premises: A massage therapy establishment license is only effective</u> for the compact and contiguous space specified in the approved license application. If the licensed premises is enlarged, altered or extended, the licensee shall inform the issuing authority.
 - N. Affiliation with establishment is required. A massage therapist must be employed by, contractually affiliated with or own a massage therapy establishment licensed by the city, unless a person or entity is specifically exempted from obtaining a massage therapy establishment license in section 309.03 of this code.
 - O. Employment of unlicensed massage therapists prohibited. No massage therapy establishment shall employ or use any person to perform massage who is not licensed as a massage therapist under this Chapter unless the person is specifically exempted from obtaining a therapist license in section 309.03 of this code.
 - P. Proof of local residency required. In the case of a massage therapy establishment license, the licensee, managing partner or manager of the licensed premises must show proof of residency in Minnesota or Wisconsin. In the case of massage therapists, the licensee must show proof of residency in Minnesota or Wisconsin.
 - Q. <u>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.</u>

309.07: VIOLATIONS, PENALTY:

Every person who violates this Chapter is guilty of a misdemeanor. (Ord. 1142, 6-13-94)

In addition to any civil remedies at law and/or adverse licensing actions, every violation of this Chapter shall constitute a misdemeanor and every person so violating this Chapter is subject to criminal prosecution.

SECTION 2: Effective date. This ordinance shall take effect upon its passage and publication.

Passed by the City Council of the City of Roseville this ____ day of _____ 2023.

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369 370 371	Ordinance –AN ORDNANCE AMENDNG T	
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375 376	(SEAL)	
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382		Daniel J. Roe, Mayor
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1		City of Roseville	
2		ORDINANCE NO	
4		AN ORDINANCE AMENDING	
5			
6		TITLE 3 Chapter 309	
7		•	
8		RDNANCE AMENDNG TITLE 3 CHAPTER 309 OF THE ROSEVILE	
9	CITY CO	ODE TO AMEND REQUIREMNTS FOR MASSAGE ESTALBISHMENT	
10		AND MASSAGE THERAPIST LICENSES	
11	THE CIT	V COLNICIL OF CITY OF DOCEVILLE ODDAING.	
12	THE CIT	Y COUNCIL OF CITY OF ROSEVILLE ORDAINS:	
13 14	ÇE	ECTION 1: Title 3 Chapter 309 of the Roseville City Code is amended, restated	
14 15		d renumbered to read as follows:	
16	un	d relialitoered to read as rollows.	
17	SECTION	1 :	
18	309.01:	Purpose and Findings	
19	309.02:	Definitions	
20	309.03:	License Required, Exceptions	
21	309.04:	Granting, Denying, Suspending, or Revoking of Massage Therapy	
22		Establishment Licenses	
23	309.05:	Granting, Denying, Suspending, or Revoking Of Massage Therapist	
24		Licenses	
25	309.06:	Restrictions and Regulations for Massage Therapy Establishments and	
26	200.07	Massage Therapist Licenses	
27	309.07:	Violations, Penalty	
28	200 01. D	URPOSE AND FINDINGS	
29 30	309.01. F	OKFOSE AND FINDINGS	
30 31	The purpo	ose of this Chapter of the city code is to prohibit massage businesses and services	
32		iblic except those licensed as massage therapy establishments and massage	
33	therapists pursuant to this Chapter. The licensing regulations prescribed herein are		
34	necessary in order to prevent criminal activity and to protect the health and welfare of the		
35	community. The purpose of this Chapter is not to impose restrictions or limitations on the		
36	freedom of protected speech or expression.		
37			
38	The City Council makes the following findings regarding the need to license massage		
39	therapy establishments and massage therapists and to prohibit all other types of massage		
40	businesses and services to the public.		
41	A		
42 42	<u>A.</u>	Persons who have bona fide and standardized training in therapeutic massage,	
43 44		health and hygiene can provide a legitimate and necessary service to the general	
44		public.	

- <u>B.</u> Health and sanitation regulations governing massage therapy establishments and massage therapists can minimize the risk of the spread of communicable diseases and can promote overall health and sanitation.
 - <u>C.</u> License qualifications for the restrictions on massage therapy establishments and massage therapists can minimize the risk that such businesses and persons will facilitate prostitution and other criminal activity in the community.
 - <u>D.</u> Massage services provided by persons with no specialized and standardized training in massage can endanger citizens by facilitating the spread of communicable diseases, by exposing citizens to unhealthy and unsanitary conditions, and by increasing the risk of personal injury.
 - <u>E.</u> Massage businesses which employ persons with no specialized and standardized training can tax city law-enforcement services, because such businesses are more likely to be operated as fronts for prostitution and other criminal activity than operations established by persons with standardized training. Fewer of such businesses will reduce the drain on law enforcement.
 - <u>F.</u> The training of professional massage therapists at accredited institutions is an important means of ensuring the fullest measure of protecting the public health, safety and welfare.

309.02 DEFINITIONS:

As used in this Chapter, the following words and terms shall have the meanings ascribed to them in this Section:

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

CHAIR MASSAGE: A massage provided to a fully-clothed individual, and limited to the neck, shoulders, arms, and back, where the massage is not provided in a massage therapy establishment; and provided the individual giving the massage meets the requirements specified in Section 309.05(A). (Ord. 1329, 11-14-05)

MASSAGE THERAPIST: A person who practices or administers massage therapy to the public.

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

MASSAGE THERAPY ESTABLISHMENT: Any room, or premise wherein a person may receive a massage from a licensed massage therapist for a fee; where massages are given on more than 14 calendar days in any given calendar year that does not meet the description of 309.03(B). (Ord. 1329, 11- 14-05)

SANITARY: Free from the vegetative cells of pathogenic microorganisms. (Ord. 1142, 6-13-1994)

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309.03 LICENSE REQUIRED, EXCEPTIONS.

- A. License Required: No person shall engage in the business of operating a massage therapy establishment or perform massage therapy in the City without first having obtained the required license.
- B. Massage Therapy Establishment Exceptions: A massage therapy establishment license is not required for entities duly licensed or operating as a hospital, nursing home, hospice, sanitarium or group home established for the hospitalization or care of human beings provided the massage is administered only to the residents or patients of the facility as part of their care and not provided as a part of a separate service.
- C. Massage Therapy License Exceptions: A massage therapy license is not required for the following persons:
 - 1. Persons duly licensed as a doctor 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 as it prepares the patient for a medical procedure or complements a medical procedure previously performed on the patient and not provided as part of a separate and distinct massage business.
 - 2. Persons working solely under the direction and control of a duly licensed doctor by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, podiatry, dentistry or a medical professional licensed under M.S. Chapters 147 and 148, as they may be amended from time to time, provided the massage is administered on the premises of the medical business;
 - 3. 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.

309.04 GRANTING, DENYING, SUPENDING OR REVOKING OF MASSAGE THERAPY ESTABLISHMENT LICENSES

- A. Application Fee: The initial application for a license shall be made by completing an application form provided by and containing such information as required by the City Manager and by paying a nonrefundable application fee, as established by the City Fee Schedule in Section 314.05. (Ord. 1329, 11-14-05)
- B. Separate License Required Fee: A separate license shall be obtained for each place of business, the fee for which shall be as established by the City Fee Schedule in Section 314.05. (Ord. 1329, 11-14-05)
- C. Zoning Compliance: Massage Therapy Establishment licenses may be granted only to establishments associated with and operating within the confines of and incidental to a properly zoned beauty parlor (salon), health club, office, shopping mall, or similar areas open to the public. (Ord. 1329, 11-14-05)

- D. Building, Safety and Sanitation Regulations: Licenses may be denied, revoked, 137 or not renewed if the premises of the massage therapy establishments do not 138 meet the requirements of the City Council, and of the building, safety and 139 sanitation regulations of the City and State. 140
- E. Fraud or Deception: Licenses may be denied, revoked, or not renewed if there 141 is any fraud or deception involved in the license application.
 - F. Compliance with Laws: Licenses may be denied, revoked, or not renewed if the applicant, licensee, or employee, contractor, or agent of the same fails to comply with federal, state, or local laws which apply to health, safety or moral turpitude. (Ord 1607, 11-08-2021)
 - The owner/operator of a Massage Therapy Establishment need not be licensed G. as a massage therapist if he or she does not at anytime practice or administer massage to the public.
 - Total Licenses: After May 1, 2023, no new Massage Therapy Establishment H. licenses shall be issued and no Massage Therapy Establishment licenses shall be reinstated following denial, revocation, or non-renewal unless fewer than ten (10) total Massage Therapy Establishment licenses exist in the City. Thereafter, the total Massage Therapy Establishment licenses in the City shall not exceed (10) at any one time. (Ord 1607, 11-08-2021) (Ord 1615, 07-25-2022)
 - Failure to renew requires new application. If a current license holder fails to I. renew such license when required, such license holder must then submit a new license application. In such case, the new application will be subject to the cap on total licenses.
 - J. Additional Conditions: The City Council may attach such reasonable conditions to the license as it, in its sole discretion, deems to be appropriate. (Ord. 1142, 6-13-1994) (Ord. 1283, 6-16-03)

309.05: GRANTING, DENYING, SUSPENDING, OR REVOCATION REVOKING OF MASSAGE THERAPIST LICENSES:

- Application for License: Any person desiring to be licensed as a massage A. therapist shall file an application in person at city hall. The application shall contain such information as the City Manager may require, including, but not limited to: (Ord. 1329, 11-14-05) (Ord 1615 07-25-2022)
 - The applicant's full name, address, social security number and written proof 1. of age issued by a government agency which may not be expired.
 - The name and address of the licensed massage therapy establishment by 2. which the applicant will be employed.
 - A statement concerning whether the person has been convicted of or entered 3. a plea of guilty to any crime or ordinance violation and, if so, information as to the time, place and nature of such crime or offense.
 - 4. Proof that the applicant meets the following educational requirements:
 - A diploma or certificate of graduation from—an Accredited a. Institution as defined herein
 - b. Each applicant shall also furnish proof at the time of application of a minimum of 600 hours of successfully completed course work by a single provider through an official copy of the transcript of

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183			academic record from the school issuing the training, degree or
184			diploma in the following areas:
185			1) The theory and practice of massage, including, but not
186			limited to, Swedish, Esalen, Shiatsu and/or foot reflexology
187			techniques; and
188			2) Anatomy, including, but not limited to, skeletal and
189			muscular structure and organ placement; and
190			3) Anatomy, physiology, hygiene, ethics, massage theory and
191			research, and massage practice.
192	В.	Fee: T	he annual license fee for a massage therapist is as established by the City
193			chedule in Section 314.05. Ord. 1329, 11-14-05)
194	C.		w of Application: Notwithstanding Section 301.02 of City Code, License
195			ations shall be reviewed and decided upon by the City Manager or
196			ee and shall include a review by the Police Department or other qualified
197			e providers in conducting and completing criminal background checks.
198			615, 07-25-2022)
199	D.	`	of Application: The license application may be denied for any of the
200			ing reasons:
201		1.	Fraudulent Statements: The application contains false, fraudulent, or
202			deceptive statements.
203		2.	Prior Conviction: The applicant has been convicted of or entered a plea
204			of guilty within the previous three years to a violation of this Chapter or
205			of any other law regulating the practice of massage, or of any law
206			prohibiting criminal sexual conduct, prostitution, or indecent conduct.
207		3.	Noncompliance: The applicant has not complied with a provision of this
208		-	Chapter.
209		4.	Underage: The applicant is less than eighteen (18) years of age. (Ord.
210			1142, 6- 13-94)
211		5.	Prior Denial, Revocation, or Suspension: The applicant has had a
212			massage therapist license denied, revoked, or suspended in another
213			jurisdiction.
214		6.	Violation of Chapter: A violation of any provision of this Chapter.
215		7.	Unlawful Conduct. Any unlawful conduct including, but not limited to,
216		, .	criminal sexual conduct, prostitution, or indecent conduct, regardless of
217			whether such conduct resulted in a criminal conviction.
218		8.	Violations of Law Relating to Practice of Massage Therapy. Any
219			violation of laws or ordinances relating to the practice of massage
220			therapy, regardless of whether such conduct resulted in a criminal
221			conviction.
222		9.	In the event of a license denial based solely or in part on a criminal
223		-	conviction, the City will follow the process outlined in Minnesota
224			Statutes Chapter 364.

Lack of Skill: Exhibition of a demonstrable lack of skill in the practice

of massage therapy. (Ord. 1142, 6-13-94)

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- 228 309.06: RESTRICTIONS AND REGULATIONS FOR MASSAGE THERAPY 229 ESTABLISHMENTS AND MASSAGE THERAPIST LICENSES:
- A. Display of License: Any person registered as a massage therapist hereunder shall display such license, with a color photo or a true copy thereof, on the premises at which the therapist is employed.
 - B. Identification: Upon demand of any police officer at the place of employment, any person licensed hereunder shall produce correct identification, identifying himself/herself by his/her true legal name and correct address.
 - C. Inspection: The issuing authority, or designee, and/or the City Police Department shall have the right to enter and inspect the licensed premise during the hours in which the licensed premise is open for business.
 - D. Transfer of establishment license. A Massage Establishment License may be transferred by a license holder to another person at the licensed location, provided that the transferee files a license application and meets the requirements to hold a license. A Massage Establishment License may be transferred by a license holder to another location to be operated by that license holder, provided that the license holder files a license application and the new location meets the location requirements. Notwithstanding the ability to transfer an establishment license mentioned above, no transfer shall be permitted if any of the following apply:
 - a. The license to be transferred has received notice of the City's intention to revoke such license, unless, after reasonable notice and an opportunity for the licensee to be heard, the license is not revoked.
 - b. The transfer is to be made on or after May 1, 2028.
 - c. There was a transfer of the Massage Establishment License at that location after May 1, 2023.
 - E. Hours: No customers or patrons shall be allowed to enter or remain on the licensed premises after 9:00 P.M. or before 8:00 A.M. daily.
 - F. The establishment may only provide services during business hours which must be posted on the door. The business must be staffed at all times during such posted hours.
 - G. Alcohol or Drugs Prohibited: No beer, liquor, narcotic drug or controlled substance, as such terms are defined by State statutes or the City Code shall be permitted on licensed premises.
 - H. Violation of Building, Safety or Health Regulations: Violation of any law or regulation relating to building, safety or health shall be grounds for revocation or any license.
 - I. Locks on Doors: There shall be no locks on doors of massage rooms.
 - J. Appropriate Covering Required:
 - a. Patron: Whenever a massage is given, it shall be required by the massage therapist that the person who is receiving the massage shall have her breasts and his/her buttocks and genitals covered with a nontransparent material. For purposes of receiving a chair massage, patrons must stay fully-clothed at all times. (Ord. 1329, 11-14-05)

- b. Therapist: Any massage therapists performing any massages shall at all times have her breasts and his/her buttocks and genitals covered with a nontransparent material. (Ord. 1142, 6-13-94)
- 275 K. 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 of a person.
 - L. With the exception of chair massages, all other types of massages shall take place in a private room subject to the conditions and restrictions noted above. (Ord. 1329, 11-14-05) (Ord. 1529, 6/19/2017)
 - M. Licensed premises: A massage therapy establishment license is only effective for the compact and contiguous space specified in the approved license application. If the licensed premises is enlarged, altered or extended, the licensee shall inform the issuing authority.
 - N. Affiliation with establishment is required. A massage therapist must be employed by, contractually affiliated with or own a massage therapy establishment licensed by the city, unless a person or entity is specifically exempted from obtaining a massage therapy establishment license in section 309.03 of this code.
 - O. Employment of unlicensed massage therapists prohibited. No massage therapy establishment shall employ or use any person to perform massage who is not licensed as a massage therapist under this Chapter unless the person is specifically exempted from obtaining a therapist license in section 309.03 of this code.
 - P. Proof of local residency required. In the case of a massage therapy establishment license, the licensee, managing partner or manager of the licensed premises must show proof of residency in Minnesota or Wisconsin. In the case of massage therapists, the licensee must show proof of residency in Minnesota or Wisconsin.
 - Q. 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.

309.07: VIOLATIONS, PENALTY:

In addition to any civil remedies at law and/or adverse licensing actions, every violation of this Chapter shall constitute a misdemeanor and every person so violating this Chapter is subject to criminal prosecution.

SECTION 2: Effective date. This ordinance shall take effect upon its passage and publication.

Passed by the City Council of the City of Roseville this ____ day of _____ 2023.

315	Signatures as follows on separate page:	
316		
317	Ordinance –AN ORDNANCE AMEN	DNG TITLE 3 CHAPTER 309 OF THE
318	ROSEVILE CITY CODE TO AM	TEND REQUIREMNTS FOR MASSAGE
319	ESTALBISHMENT AND MASSAGE T	HERAPIST LICENSES.
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322	(SEAL)	
323		
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325		CITY OF ROSEVILLE
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328		BY:
329		Daniel J. Roe, Mayor
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331	ATTEST:	
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335 336	Patrick Trudgeon, City Manager	

1 **City of Roseville** ORDINANCE SUMMARY NO. 2 3 APPROVING PUBLICATION OF AN ORDINANCE SUMMARY OF THE 4 5 AMENDMENT TO TITLE 3, SECTION 309 OF THE ROSEVILLE CITY CODE IN ORDER TO AMEND CERTAIN 6 REQUIREMENTS FOR MASSAGE ESTABLISHMENT AND 7 MASSAGE THERAPIST LICENSES. 8 9 **SECTION 1**: The City Council of the City of Roseville, on April 10, 2023, adopted 10 Ordinance No. 1631. Minnesota Statutes, section 412.191, subd. 4, allows publication by 11 title and summary in the case of lengthy ordinances or those containing charts or maps. 12 13 14 The City Council has determined that the following summary would clearly inform the public of the intent and effect of the ordinance. 15 16 17 **SECTION 2**: The following is the official summary of Ordinance No. 1631 approved by the City Council of Roseville on April 10, 2023 and directs the City Clerk to publish the 18 title and summary as follows in the official newspaper in lieu of the entire ordinance: 19 20 On April 10, 2023, the City Council of the City of Roseville 21 adopted Ordinance No. , an ordinance: "The Amendment to Title 22 3, Section 309 Of The Roseville City Code In Order To Amend Certain 23 Requirements For Massage Establishment And Massage Therapist 24 Licenses." The Ordinance amends the requirements for issuance of the 25 licenses, sets a new cap on total Massage Establishment licenses at 10, 26 and prohibits transfers of licenses after 2028. The Ordinance allows 27 current license holders to continue to be licensed, but prohibits issuance 28 of new licenses, including licenses that are revoked, unless there are less 29 than 10 licenses in the City. 30 **SECTION 3**: A printed copy of the full ordinance is available for inspection by any person 31 32 during regular office hours in the office of the City Manager at the Roseville City Hall, 2660 Civic Center Drive, Roseville, Minnesota 55113. A copy of the ordinance and 33 summary shall also be posted on the Internet web page of the City of Roseville 34 (www.cityofroseville.com). 35 36 37 38 39 ATTEST: 40 41 42 43 Patrick Trudgeon, City Manager

from these licensing requirements and this is something he would like to look into in the future.

Public Comment

Mayor Roe offered an opportunity for public comment with no one coming forward.

e. Review and Consider an Ordinance Amending City Code Chapter 309: Massage Therapy

City Manager Patrick Trudgeon briefly highlighted this item as detailed in the Request for Council Action and related attachments dated November 8, 2021.

Mayor Roe asked if staff did any outreach to existing license holders about these proposed changes and asking them for their input.

Mr. Trudgeon indicated staff did not reach out at this point, they wanted to bring this conversation forward to the Council to see if there is any interest in pursuing this.

Councilmember Willmus asked how staff arrived at the number of ten. He also asked if they were not to move forward with this at the meeting, can they put in place some sort of moratorium on issuing new licenses until they have completed conversations as to what they want to do.

Mr. Trudgeon explained the number ten is a number that can easily be managed knowing given that massage establishments have multiple massage therapists.

City Attorney Gaughan explained the Council can enact a moratorium on the issuance of additional licenses.

Councilmember Willmus asked if there would be a delay for putting a moratorium in place.

City Attorney Gaughan explained it is an ordinance so it would need to be posted for ten days under State Law prior to adoption by Council.

Councilmember Strahan asked if this included move of location of the exact same facility and would that be a change that warrants them losing a spot.

Mr. Trudgeon stated that was a good question and wanted to make sure it was nailed down. He thought when staff issues the license to an establishment, it is at that particular location. If somebody were to move, the City would want to be very explicit on what that means, whether or not they would lose their license, or if the

City would allow for that move. He thought the Council could include verbiage to clarify that for consideration.

Councilmember Strahan asked if the addition of hours was something new. She wondered if there were some current restrictions on hours of operation.

Mr. Trudgeon explained that unless it is underlined or crossed out, it is not anything new.

Councilmember Etten asked who enforces the licenses.

Mr. Trudgeon indicated it is both Administration and the Police Department. Administration staff works in conjunction with the Police Department to go to the place of business and have the owner show the licensing for every person that is working there. They have done that in several cases recently to verify and so far, it has come back okay.

Councilmember Etten asked if the fees were too small to cover administrative costs and if so, should the fees be increased.

Mr. Trudgeon explained they always want to make sure the City charges enough to cover costs and while they have not done a time analysis, he was not sure the fees are out of line. He noted one thing being proposed is to add an additional twenty-five dollars to have annual background checks.

Councilmember Groff asked if the City has any massage therapist businesses that are a problem or might not be legitimate.

Mr. Trudgeon indicated staff had some sense, but not totally, where the problems are. They tend to find that corporate-owned facilities are not the problem, it is the smaller, independent businesses with issues. He noted they do not actively go out there to test them, it is what the City hears or observes or as a result of a secondary issue occurring at the establishment.

Councilmember Etten asked who is enforcing criminal violations.

Mr. Trudgeon indicated that is processed through the Police Department.

City Attorney Gaughan indicated violations of criminal code would be prosecuted by either the County or City Attorney after being investigated by the Police Department.

Councilmember Strahan thought this was something that the Council needs to address because people have contacted her with concerns.

Councilmember Willmus thought they should look at some form of regulation beyond what they currently have but he does not know how many licenses there should be. He did not know if they wanted to add more going forward.

Mayor Roe thought it made sense to look more broadly at the ordinance related to the licensing of massage therapy establishments. He thought this was a good starting point and he was also interested in looking at an interim ordinance.

City Attorney Gaughan indicated one other option would be to pass the proposed ordinance tonight with the amendment that instead of ten total massage therapy establishments, make it twenty-five. He advised that would be a way to take action tonight to cap it at status quo and then the Council can continue to configure additional ordinances.

Councilmember Etten indicated he would be in favor of that.

Public Comment

Mayor Roe offered an opportunity for public comment with no one coming forward.

Mr. Art Stoeberl, 2470 Lydia Avenue West

Mr. Stoeberl explained he liked the suggestion that they look at criteria for operation of a business.

No one else wished to address the Council. Mayor Roe closed the public comment.

Willmus moved, Strahan seconded, enactment of Ordinance No. 1607 entitled, "An Ordinance Amending Title 3, Section 309 Massage Therapy" with the amendment to strike ten establishments and replace with twenty-five.

Roll Call

Ayes: Groff, Willmus, Strahan, Etten, and Roe.

Nays: None

f. Consider Adoption of 2022 City Council and Economic Development Authority Calendar

City Manager Trudgeon briefly highlighted this item as detailed in the Request For Council Action and related attachments dated November 8, 2021.

Etten moved, Willmus seconded, approving the 2022 City Council and EDA Meeting Calendar.

Roll Call

Willmus moved to table this item and bring it back to the August 8, 2022 City Council meeting for discussion on an interim ordinance to look at and focus on design standards and look at establishing, studying, and possibility creating a varying step level within LDR in terms of design standards and take into consideration some of the existing density within neighborhoods when looking at that.

The motion failed for lack of second.

Groff indicated he would like to table this item to do further research.

Mayor Roe asked what type of research was Councilmember Groff envisioning.

Councilmember Groff felt he was not ready to make a decision with the information he has been given.

Groff moved, Willmus seconded, to table this item in order to further review the information and it bring back to the City Council at the August 8, 2022 City Council meeting.

Roll Call

Ayes: Willmus, Strahan, and Groff.

Nays: Etten, and Roe.

Councilmember Willmus left the meeting at 7:17 p.m.

b. Review and Consider an Ordinance Amending City Code Chapter 309: Massage Therapy

City Manager Patrick Trudgeon briefly highlighted this item as detailed in the Request for Council Action and related attachments dated July 25, 2022.

Councilmember Etten asked if there was a role for a higher licensing fee that allows for the funding of additional staff time.

Mr. Trudgeon explained that is something staff would need to look at further. He wants to make sure that the fee charged commensurate with the work put into it. Primarily what the fees cover are administrative costs and to cover the background check. What the fee does not necessarily cover is the law enforcement side of it where there are compliance checks or work done based on a complaint. He would want to look at what that would look like if a change were incorporated and that would need some further work on staff's end and on the Police Department.

Councilmember Etten explained when there is found to be, trafficking in an establishment, there are certain criminal proceedings with that, he wondered if there is a fee system or loss of license for an establishment owner.

Mr. Trudgeon indicated he was not sure about a fee but certainly there would be a loss of license. He thought given the last few years based on what the City is starting to see, he thought it was imperative for the City to take a stronger focus on these problem areas and really be as aggressive as possible under the Code and law to make sure that behavior is not happening here and then there are repercussions to that.

Councilmember Groff asked if it was more the cost of enforcement.

Mr. Trudgeon agreed that it is the cost to do the enforcement and the time for the officers to do that among the other priorities so if the City were to increase the fees staff would want to make sure there is the capability of the Police Department personnel to actually do that work. He noted he has not had this conversation with the Chief at this point.

Councilmember Strahan indicated on her ride along with CAT (Community Action Team) there was a certain time of day that the officers had to go and address the massage therapy locations. The team had to stop their other work to address these issues and it was stressed that the City has fewer massage therapy locations in the City because the Police Department cannot properly police the ones already in the City. She indicated she was a little hesitant to spread that cost around because there are people that are doing the right thing and are a legitimate business so to spread that cost over all of those seems a bit unfair to them but she thought the City needed to find a better solution. She explained she also talked with the Chief and she shared that there are too many locations for the officers the City has and the City needs to find a way to reduce these. She was supportive of bringing that number back and she also thought as these businesses dwindle down the number allowed should be brought down.

Mayor Roe indicated if the Council discussed license transfer and defined what that is, one thing he thought about is if the business is licensed for a period of time continuously, that business should be allowed to transfer, potentially, when and if needed, and not necessarily be limited to one. He noted that might get at the issue of allowing people to make changes, especially if leasing space.

Councilmember Etten asked if the City has a record of how many establishments have lost their license.

Mr. Trudgeon explained he did not have any direct data but he did not think it has been great and did not recall any revocation since he has been City Manager. He indicated he could get that information to the Council.

Councilmember Groff indicated he hated to see legitimate businesses punished for the behavior or a small group and does not seem fair to him. He wanted the Council

to really think about how they can do this, such as a five year look back or a probation period or something like that. He thought with the chronically problem establishments he hoped the City can find a system in place to eventually have those businesses out of Roseville. He noted the City does not want to have illegal activities going on or underage women trafficked or immigrant women trafficked and he thought that is the point the City should be looking at and not punishing someone who has built up a business. As far as moving the license, if the business is successful it might have expanded and grown and will need to go into another space or may need to shrink the business down as well. He really wants the City to be careful and to think about this before decisions are made.

Mayor Roe clarified that potentially, depending on how it is worded or put together, that five-year situation could only allow a transfer every five years. The business could be in a situation where it could not move until five years have passed or ownership could not change until after five years have passed. It would have to be carefully worded.

Councilmember Strahan indicated Mr. Trudgeon had stated at another time to have applicants come to City Hall to prove ID and asked if he could speak to that. She also wondered about the ten-thousand-dollar investment that Edina requires.

Mr. Trudgeon explained one of the things with talking about the process, often times an applicant representative will come to City Hall and hand in the information with a photo copy of an ID and often times when the applicant comes there is language barriers but one thing to note as staff has done research, some cities do require the actual applicant to come down and fill out he application so staff can make sure it matches the name, residence, where the location is with the person on there. It is a safeguard to make sure there is not a constant paper shuffle of inaccurate ID information because there does seem in some of the institutions a big churn of therapists coming and going. He thought having more upfront work on the city's part to make sure that the person that is getting the license and that it is attached to particular establishment is the right person.

Mayor Roe asked if that is for the therapist license or the business license.

Mr. Trudgeon indicated it was for the therapist license.

Mayor Roe noted that part of the licensing is not being discussed with this so he wanted to make sure the Council did know that but needed good information in case, in the future, that process is looked at.

Mr. Trudgeon indicated he was not sure regarding the \$10,000 investment that Edina requires and was curious about that as well. He explained City Clerk Bruno did the research so he will find out what Edina does regarding that and how that work.

City Attorney Gaughan explained on the issue of more stringent identification procedures put in place, that is something he has worked with staff on and that is part of the draft proposed amendments here. That does reference more stringent identification procedures for therapist license that are focused on the issues being discussed. That is the basis behind a portion of the amendments before the Council.

Mayor Roe explained the current massage therapist license fee is \$325 and the off-sale liquor license fee, which was mentioned earlier and with a limit of ten or twelve in the City is \$300 and that license fee is limited by State Law and cannot be exceeded. On-sale license fees go well above that. The tobacco license fee is \$200 per tobacco seller. He noted this is for comparison purposes.

Councilmember Strahan explained the City is in this position because the State does not have a licensing board for massage therapists.

Public Comment

Mayor Roe offered an opportunity for public comment.

Mr. Tom Ketchmark, Elements Massage

Mr. Ketchmark stated with regard to the amended Ordinance change proposal, he has been the owner of Elements Massage in Roseville since 2013. Elements Massage is a franchise with over 250 locations throughout the United States and currently there are five Elements Massage locations in the Twin Cities. When he decided to open his business, like many small businesses, his intent was and still is to build and grow a strong business in this community with some day having the opportunity of selling his business for a fair profit and refund his retirement. He indicated his business was funded using his 401k account which he saved for more than twenty-five years. This is a very common practice in small business and is done through a C-Corporation. The Ordinance that states that a massage business cannot be sold or transferred will devastate his retirement account. As upon selling the business, the funds are required to be re-established into a qualified retirement plan. There are many reasons why a business owner wants or needs to sell their business. No one goes into business without an exit strategy, whether it is intentional or circumstantial. The current City of Roseville Ordinance is in the forefront of massage business licensure and he appreciates this greatly. As a matter of fact, he personally has suggested to the MTMA and the Minnesota Board that Roseville be used as a model for State Licensure. He has fully supported these requirements for the past nine years and appreciates the peace of mind that those he hires are fully vetted in addition to the vetting requirements established by Elements Corporation. It is also his understanding from Mr. Trudgeon that the amendment was modeled after a restriction set forth for the tobacco businesses selling flavored tobacco. He felt this was not a fair comparison as tobacco is a product where the massage ordinance amendment restricts business based solely on a generalization about the industry. The City would not restrict all bar/restaurants because there are problem few, he wondered why this would be treated any differently. He indicated he was in full support of shutting down any individual massage business that acts inappropriately in any way. He would also be willing to volunteer his knowledge and service to this cause. There are very easily identifiable signs associated with an illegal business. If this is the direction the Council chooses then the Council should also be looking at chiropractors, spas, waxing businesses and even medical clinics. Any business that operates behind closed doors with their clients. He stated he wanted the Council to keep in mind that Massage is therapeutic and recognized by health insurance and he serves over a thousand clients every single month.

Mayor Roe closed public comment.

Strahan moved, Groff seconded, enactment of Ordinance No. 1615 entitled, "An Ordinance Amending Title 3, Section 309 Massage Therapy" changing the number of Massage Therapy establishments to twenty-four.

Council Discussion

Councilmember Strahan indicated the only changes she was making to the current Ordinance is to change the date and the limit from twenty-five to twenty-four as well as to further study the things the Council has been discussing. She indicated she would like to learn more about the investment described in the Edina plan and she would like to know more about some of the other things the Council has discussed.

Mayor Roe asked if Councilmember Strahan's motion was to leave the red language stating "sold, or transferred" out of the amendment at this time until further discussion has occurred.

Councilmember Strahan indicated that was correct. She saw this as an interim while the Council has further discussion and makes further decisions with the plan that the numbers will likely go down along with other adjustments. She saw this amendment as filling the loophole so no one can fill the twenty-fifth seat while changes are being considered.

Councilmember Groff thought his goal would be over attrition as this happens to lower the number but not to penalize the people that are running businesses that are legitimate right now and should be able to sell those businesses to refund their retirement account or anything else.

Councilmember Etten indicated he will support this and is anxious to see what comes out of further discussion. He noted he was actually most interested in section two which will give the City more ability to address potential issues and ensuring

the licenses are going to real people and people who are passing real background checks. For him, the biggest thing is addressing problem establishments.

Mr. Trudgeon summarized the actions being taken by the City Council.

Mayor Roe explained he has struggled with the difference between twenty-five and twenty-four and the bigger picture of things but he was also not inclined to hang his hat on that as a huge thing. If that is the way the Council wanted to go, he would be supportive of that. He is supportive of not including the limitations of selling or transferring at this time until there is a better understanding of that. He also did support the changes in Section 2 as to how the City does the administration and enforcement.

Roll Call

Ayes: Etten, Strahan, Groff, and Roe.

Nays: None

Mayor Roe asked the Council, as a follow-up, if there are specific things the Council wants staff to look at or bring back or is there language about some aspect that the Council wants to have more study about. He explained if the five year look back made any sense in allowing a transfer of a license, maybe it is two years but he thought in their alcohol enforcement, the City generally looks back three years in terms of if there are violations. This does not mean the Council necessarily will approve an application for renewal but the City does account for the violations within that timeframe. In this case, the City does not necessarily have a program of checking ID's or that sort of thing so he was not sure what the City would necessarily look back for other than a license in good standing and potentially if there is a lot of turnover of ownership that may be a sign of issues.

Councilmember Etten indicated he was very much in favor of an Ordinance that does not punish current owners and protects legitimate owners. He thought a grandfathered piece works for him or some sort of look back. He would look for a suggestion on what would be reasonable and not create additional issues for enforcement for staff.

Councilmember Groff explained the main thing he would like the City to do, if it takes more funding, is to assure the City is able to afford checking on tobacco and alcohol with the licensing fee. He indicated if there is going to be a look back he would like input from the Police Department because that department is the one that knows this inside and out.

Councilmember Strahan was not sure if the City could consider a nuisance fee like the City does with problem hotels but if there are some massage therapy businesses with repeated calls, the City has an opportunity to charge them with a nuisance and take into consideration if the business can have a license. Mayor Roe indicated another piece that some Councilmembers want to look at is the total number of licenses and does the Council have a sense as to where they want to go with that, if that is something the Council wants to look at, and does that happen over time or all at once. He asked how the Council wants to look at that for some guidance for staff.

Councilmember Groff indicated he did not want to see that happen before the end of the year and felt it was way too fast for him. He would have to look at this over time.

Mayor Roe thought the City needed to set the number of licenses allowed for attrition and for existing business owners, the owner might want to know in order for planning of their business.

Councilmember Strahan explained she would like to involve the Police Department in this conversation, especially the officers involved in the enforcement. She did not want to make a decision that the Police Department has no input in because this impacts the department daily and deeply.

Councilmember Etten indicated he was not prepared to name a number until the City has a robust system for protecting legitimate owners and for that matter, clarity and what support the City's departments need to enforce with problems. He noted he wants to see those two pieces before he talks about a number.

Councilmember Groff agreed and would like to know what St. Louis Park is doing if they are managing this with however many numbers they had.

c. Consider Approval of Contract with Zan Associates for Community Wide Visioning Process

Assistant City Manager Rebecca Olson briefly highlighted this item as detailed in the Request for Council Action and related attachments dated July 25, 2022.

Ms. Olson introduced Mr. Dan Edgerton, Zan Associates who described what "Hello Lamppost" was.

Mr. Ryan McClain, Hello Lamppost, made a quick presentation to the City Council on how the program works and what the benefits are of the program.

Councilmember Etten asked how many signs will be a part of this contract.

Mr. Edgerton indicated the package included in the proposal is for forty objects that can be around town with eight themes, which would dovetail with the visioning themes.

Amendments to Chapter 309: Massage Therapy

April 10, 2023



Chapter 309 Amendments - Massage Therapy

April 10, 2023

On November 8, 2021, the City Council adopted Ordinance #1607

- Cleaned up existing language to specify that massage therapy establishments that do not comply with federal, state, or local laws may have their license denied, revoked, or not renewed.
- Added language stating that massage therapy establishments shall not have an unlicensed person conduct massage therapy on their premises
- Limited the amount of massage therapy establishment licenses allowed in Roseville to 25.

On July 25, 2022, staff brought back additional suggested amendments to Chapter 309, that included including prohibiting the transfer of establishment licenses, requiring additional information to be submitted as part of license applications, and considering a lower amount of permitted massage therapy establish thant the current threshold of 25.

City Council did pass Ordinance #1615 that reduced the number of establishments to 24 and to allow additional information to be required as part of the licensing application.

City Council wanted additional discussion at a future meeting on language surrounding transfers and to consider allowing a lower number of establishment licenese than currently in operation.

Chapter 309 Amendments - Massage Therapy

April 10, 2023

Tonight bringing back a comprehensive ordinance amendment regarding the regulation and licensing of massage therapy establishment and massage therapists

Proposed ordinance has been shared with all massage therapy establishments and posted on the City website since March 31

Changes have been made in every section

The following slides will summarize and highlight the specific changes in each section

Chapter 309 Amendments – Massage Therapy

April 10, 2023

<u>Section 309.01 Purpose and Findings</u> – New section that articulates the rationale and need for the licensing massage therapy establishments and massage therapists

<u>Section 309.02 Definitions</u> – Adjustments were made to the existing definitions and a new definition of accredited institutions was added

Section 309.03 Licenses Required, Exceptions; Section 309.04 Granting, Denying, Suspending or Revoking Massage Therapy Licenses; and Section 309.05 Granting, Denying, Suspending or Revoking Massage Therapist Licenses were all reorganized for clarity

Section 309.03 Licenses Required, Exceptions

 New language was added to 309.03 (B) to list exceptions for when a Massage Therapy Establishment License or a Massage Therapist License is not required

Chapter 309 Amendments - Massage Therapy

April 10, 2023

Section 309.04 Granting, Denying, Suspending or Revoking Massage Therapy Licenses

- New language was added in Section 309.04 (G) that states the owner/operator of the massage therapy establishment does not need to be licensed as a massage therapist if they do not practice or administer massage to the public
- Section 309.04 (H) was amended to change the total amount of Massage Therapy Establishment Licenses that are
 allowed in the city from 24 to 10 and the effective date for when the new cap begins as May 1, 2023New language was
 added to Section 309.04(I) to state that failure of an establishment to renew their license is considered a new application
 and is subject to the cap of total licenses

Section 309.05 Granting, Denying, Suspending or Revoking Massage Therapist Licenses

- New language was added to Section 309.05 (A) to require applicants for massage therapist licenses to apply in person
 at city hall with proof of identity on a government issued document, provide proof of graduation from an accredited
 institution as defined in the chapter, clarifies that course work of a minimum of 600 hours must be completed from one
 institution in required subject areas
- New language was added to Section 309.05 (D) regarding conditions for denial of a massage therapist license including unlawful conduct and violations of law relating to the practice of massage therapy regardless of whether such conduct resulted in criminal conviction.

Chapter 309 Amendments - Massage Therapy

April 10, 2023

Section 309.06 Restrictions and Regulations for Massage Therapy Establishments and Massage Therapist Licenses

- New language was added to 309.06 (Restrictions and Regulations for Massage Therapy Establishments and Massage Therapist Licenses) in several areas that are as follows:
 - Requirement of a color photo to be displayed with the therapist license at the massage therapy establishment
 - Establishing the right of the City to enter and inspect the licensed premise during open business hours
 - Prohibiting the transfer of a license from place to place or person to person
 - Requiring the business to only provide services as posted in the business
 - Requiring the business to be staff during posted business hour
 - Prohibiting the massage of certain body parts
 - Requiring the city to be notified if the licensed premises is enlarged, altered, or extended
 - Requiring the massage therapist to work for or own a massage therapy establishment licensed by the city
 - Prohibits the employment of unlicensed massage therapist by establishments
 - Requires proof of local residency (Minnesota or Wisconsin) for the massage therapist establishment managing partner or manager and for massage therapists