

ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: April 24, 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.

At the April 10 meeting, staff brought forward a new draft with suggested amendments to Chapter 309. The proposed amendment made numerous changes to Chapter 309. The staff report from the April 10 meeting described the changes in detail (Attachment A)

At the meeting, the City Council heard comments from representatives of massage therapy establishments and members of the public about the proposed changes. After discussion, based on City Council direction and final staff review, the following changes have been made:

- 309.01 Purpose and Findings – Section 309.01 (E) was modified to be consistent with other parts of the code that do not require owners or operators of massage therapy establishments to be licensed massage therapists.
- 309.02 Definitions – Under the MASSAGE THERAPY definition the word “rehabilitation” was added as part of the reasons massage therapy services are received.
- 309.03 License Required, Exceptions – Added language that a person is exempt from obtaining massage therapist license if they are under the direction of persons that are “professional licensed by the Board of Medical Practice or the Minnesota Department of Health” to replace language exempting persons working under the direct supervision of a “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”. The change was made to make sure all medical providers are provided for instead of listing out specific ones and potentially missing some medical professions.
- 309.04 Granting, Denying, Suspending or Revoking of Massage Therapy Establishment Licenses – Former Section 309.04 (H) Total Licenses was removed in its entirety. As a result there will no longer be a cap on the amount of massage therapy establishment licenses issued by the city.
- 309.06 Restrictions and Regulations for Massage Therapy Establishments and Massage Therapist Licenses – 309.06 (B) was modified to require a person licensed under this Chapter to produce a photo identification with name and address upon demand by a police officer.
- 309.06 Restrictions and Regulations for Massage Therapy Establishments and Massage

Therapist Licenses – 309.06 (D) Transfer of establishment license was modified to remove language that limited transfer of licenses due to the cap of licenses contained in the previous draft amendment. The section removed is no longer needed.

- 309.06 Restrictions and Regulations for Massage Therapy Establishments and Massage Therapist Licenses - 309.06 (E) Hours was modified for clarity when restricting customers being on the premise. The language now states that customers cannot be on the premises before 8 a.m. and after 9:00 p.m.
- 309.06 Restrictions and Regulations for Massage Therapy Establishments and Massage Therapist Licenses – 309.06 (F) has been modified to not require establishments to be staffed during posted business hours when the business is operated by a sole licensed therapist.
- 309.06 Restrictions and Regulations for Massage Therapy Establishments and Massage Therapist Licenses – 309.06 (J) Appropriate Clothing has been modified to require therapists regardless of gender to have their breasts covered when a massage is given.
- 309.06 Restrictions and Regulations for Massage Therapy Establishments and Massage Therapist Licenses – 309.06 (K) Massage of certain body parts prohibited was modified to not allow massage of breasts.
- 309.06 Restrictions and Regulations for Massage Therapy Establishments and Massage Therapist Licenses – 309.06 (Q) Posting of Rates was modified to use the term “massage therapy establishment” versus “massage enterprise business” to be consistent with the rest of Chapter 309.

The changes are shown in a redlined version in Attachment B.

At the time of the writing of this case, draft minutes from the April 10 City Council meeting were not available. It is hoped that they will be available prior to the April 24 meeting and staff will send them out to City Council and add to the case as a bench handout.

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.

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 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

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

80 profession is part of a much larger international problem that creates slavery, bondage, intimidation,
81 violence and trauma. The Trafficking Victim Protection Act of 2004 found that traffickers primarily
82 target women and girls, who are disproportionately affected by poverty, have limited access to
83 education, suffer chronic unemployment, discrimination, and lack economic opportunities in their
84 countries of origin. Traffickers lure women and girls into their networks through false promises of
85 decent working conditions.

86 **STAFF RECOMMENDATION**

87 Staff recommends that the City Council review the proposed amendments to Chapter 309 and consider
88 approving the ordinance amendment and ordinance summary.

89 **REQUESTED COUNCIL ACTION**

90 The City Council should review the proposed amendments to Chapter 309 and and consider approving
91 the ordinance amendment and ordinance summary.

92

Prepared by: Patrick Trudgeon, City Manager
Katie Bruno, Deputy City Clerk

Attachments: A: Staff report from April 10, 2023 meeting
B: Draft Ordinance (redlined)
C: Draft Ordinance (clean copy)
D: Ordinance Summary

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At the meeting, the City Council heard comments from representatives of massage therapy establishments and members of the public about the proposed changes. After discussion, the City Council directed staff to revise the proposed amendment as follows:

- 309.01 Purpose and Findings – Section 309.01 (E) was modified to be consistent with other parts of the code that do not require owners or operators of massage therapy establishments to be licensed massage therapists.
- 309.02 Definitions – Under the MASSAGE THERAPY definition added the word “rehabilitation” as part of the reasons massage therapy services are received.
- 309.03 License Required, Exceptions – Added language that a person is exempt from obtaining massage therapist license if they are under the direction of persons that are “professional licensed by the Board of Medical Practice or the Minnesota Department of Health” to replace language exempting persons working under the direct supervision of a “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”. The change was made to make sure all medical providers are provided for instead of listing out specific ones and potentially missing some medical professions.
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BUDGET IMPLICATIONS

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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,

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- 45 B. 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 C. License qualifications for the restrictions on massage therapy establishments
49 and massage therapists can minimize the risk that such businesses and persons
50 will facilitate prostitution and other criminal activity in the community.
- 51 D. Massage services provided by persons with no specialized and standardized
52 training in massage can endanger citizens by facilitating the spread of
53 communicable diseases, by exposing citizens to unhealthy and unsanitary
54 conditions, and by increasing the risk of personal injury.
- 55 E. Massage businesses which employ persons with no specialized and
56 standardized training can tax city law-enforcement services, because such
57 businesses are more likely to be operated as fronts for prostitution and other
58 criminal activity than operations that only employ persons with the training
59 required by this ordinance. ~~established by persons with standardized training.~~
60 Fewer of such businesses will reduce the drain on law enforcement.
- 61 F. The training of professional massage therapists at accredited institutions is an
62 important means of ensuring the fullest measure of protecting the public health,
63 safety and welfare.

64
65 309.02 DEFINITIONS:

66
67 As used in this Chapter, the following words and terms shall have the meanings ascribed
68 to them in this Section:

69
70 ACCREDITED INSTITUTION: An educational institution holding accredited status with
71 the Minnesota Office of Higher Education or the United States Department of Education.

72
73 CHAIR MESSAGE: A massage provided to a fully-clothed individual, and limited to the
74 neck, shoulders, arms, and back, where the massage is not provided in a massage therapy
75 establishment; and provided the individual giving the massage meets the requirements
76 specified in Section 309.05(A). (Ord. 1329, 11-14-05)

77
78 MESSAGE THERAPIST: A person who practices or administers massage therapy to the
79 public.

80
81 MESSAGE THERAPY: The rubbing, stroking, kneading, tapping or rolling of the body
82 with the hands or other parts of the body for the exclusive purposes of relaxation, physical
83 fitness, rehabilitation or beautification and for no other purpose.

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

90 SANITARY: Free from the vegetative cells of pathogenic microorganisms. (Ord. 1142, 6-
91 13-1994)

92
93 309.03 LICENSE REQUIRED, EXCEPTIONS.
94

95 A. License Required: No person shall engage in the business of operating a
96 massage therapy establishment or perform massage therapy in the City without
97 first having obtained the required license.

98 B. Massage Therapy Establishment Exceptions: A massage therapy establishment
99 license is not required for entities duly licensed or operating as a hospital,
100 nursing home, hospice, sanitarium or group home established for the
101 hospitalization or care of human beings provided the massage is administered
102 only to the residents or patients of the facility as part of their care and not
103 provided as a part of a separate service.

104 C. Massage Therapy License Exceptions: A massage therapy license is not
105 required for the following persons:

106 1. Persons duly licensed as a doctor by this state to practice medicine,
107 surgery, osteopathy, chiropractic, physical therapy or podiatry, provided
108 the massage is administered in the regular course of the medical
109 business as it prepares the patient for a medical procedure or
110 complements a medical procedure previously performed on the patient
111 and not provided as part of a separate and distinct massage business.

112 2. Persons working as, or solely under the direction and control of, a duly
113 professional licensed by the Board of Medical Practice or the Minnesota
114 Department of Health ~~licensed doctor by this state to practice medicine,~~
115 ~~surgery, osteopathy, chiropractic, physical therapy, podiatry, dentistry~~
116 ~~or a medical professional licensed under M.S. Chapters 147 and 148, as~~
117 ~~they may be amended from time to time,~~ provided the massage is
118 directly related to the medical or health treatment and is administered
119 on the premises of the medical or health business;

120 3. Students of an accredited institution who are performing massage
121 services in the course of a clinical component of an accredited program
122 of study, provided that the students are performing the massage services
123 at the location of the accredited institution and provided the students are
124 identified to the public as students of massage therapy.
125

126 309.04 GRANTING, DENYING, SUPENDING OR REVOKING OF MASSAGE
127 THERAPY ESTABLISHMENT LICENSES
128

129 A. Application Fee: The initial application for a license shall be made by
130 completing an application form provided by and containing such information
131 as required by the City Manager and by paying a nonrefundable application fee,
132 as established by the City Fee Schedule in Section 314.05. (Ord. 1329, 11-14-
133 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, 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. The owner/operator of a Massage Therapy Establishment need not be licensed as a massage therapist if he or she does not at any time practice or administer massage to the public.
- ~~H. Total Licenses: After 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 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)~~
- ~~I.H. 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.~~
- H. 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:

- A. Application for License: Any person desiring to be licensed as a massage 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)
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 will be employed.

- 178 3. A statement concerning whether the person has been convicted of or entered
179 a plea of guilty to any crime or ordinance violation and, if so, information
180 as to the time, place and nature of such crime or offense.
- 181 4. Proof that the applicant meets the following educational requirements:
- 182 a. A diploma or certificate of graduation from—an Accredited
183 Institution as defined herein
- 184 b. Each applicant shall also furnish proof at the time of application of
185 a minimum of 600 hours of successfully completed course work by
186 a single provider through an official copy of the transcript of
187 academic record from the school issuing the training, degree or
188 diploma in the following areas:
- 189 1) The theory and practice of massage, including, but not
190 limited to, Swedish, Esalen, Shiatsu and/or foot reflexology
191 techniques; and
- 192 2) Anatomy, including, but not limited to, skeletal and
193 muscular structure and organ placement; and
- 194 3) Anatomy, physiology, hygiene, ethics, massage theory and
195 research, and massage practice.
- 196 B. Fee: The annual license fee for a massage therapist is as established by the City
197 Fee Schedule in Section 314.05. Ord. 1329, 11-14-05)
- 198 C. Review of Application: Notwithstanding Section 301.02 of City Code, License
199 applications shall be reviewed and decided upon by the City Manager or
200 designee and shall include a review by the Police Department or other qualified
201 service providers in conducting and completing criminal background checks.
202 (Ord 1615, 07-25-2022)
- 203 D. Denial of Application: The license application may be denied for any of the
204 following reasons:
- 205 1. Fraudulent Statements: The application contains false, fraudulent, or
206 deceptive statements.
- 207 2. Prior Conviction: The applicant has been convicted of or entered a plea
208 of guilty within the previous three years to a violation of this Chapter or
209 of any other law regulating the practice of massage, or of any law
210 prohibiting criminal sexual conduct, prostitution, or indecent conduct.
- 211 3. Noncompliance: The applicant has not complied with a provision of this
212 Chapter.
- 213 4. Underage: The applicant is less than eighteen (18) years of age. (Ord.
214 1142, 6- 13-94)
- 215 5. Prior Denial, Revocation, or Suspension: The applicant has had a
216 massage therapist license denied, revoked, or suspended in another
217 jurisdiction.
- 218 6. Violation of Chapter: A violation of any provision of this Chapter.
- 219 7. Unlawful Conduct. Any unlawful conduct including, but not limited to,
220 criminal sexual conduct, prostitution, or indecent conduct, regardless of
221 whether such conduct resulted in a criminal conviction.
- 222 8. Violations of Law Relating to Practice of Massage Therapy. Any
223 violation of laws or ordinances relating to the practice of massage

therapy, regardless of whether such conduct resulted in a criminal conviction.

9. In the event of a license denial based solely or in part on a criminal conviction, the City will follow the process outlined in Minnesota Statutes Chapter 364.

10. Lack of Skill: Exhibition of a demonstrable lack of skill in the practice of massage therapy. (Ord. 1142, 6-13-94)

309.06: RESTRICTIONS AND REGULATIONS FOR MASSAGE THERAPY 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 valid photo ~~correct~~ identification, identifying himself/herself by his/her true legal name and proof of ~~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.D. — 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~~ before 98:00 P.A.M. or ~~before~~ after 89:00 A.P.M. daily.

F. The establishment may only provide services during business hours which must be posted on the door. Except in the case of a Massage Establishment where the license is held by the sole Licensed Therapist at the business, ~~the~~ 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:
1. 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)
2. Therapist: Any massage therapists performing any massages shall at all times have their ~~her~~ breasts and his/her buttocks and genitals covered with a nontransparent material. (Ord. 1142, 6-13-94)
- K. Massage of certain body parts prohibited. At no time shall the massage therapist intentionally massage or offer to massage the breasts, 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~~ therapy establishments 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.

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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.

322 Signatures as follows on separate page:

323
324 *Ordinance –AN ORDNANCE AMENDNG TITLE 3 CHAPTER 309 OF THE*
325 *ROSEVILE CITY CODE TO AMEND REQUIREMNTS FOR MASSAGE*
326 *ESTALBISHMENT AND MASSAGE THERAPIST LICENSES.*

327
328
329 (SEAL)

330
331
332 CITY OF ROSEVILLE

333
334
335 BY: _____
336 Daniel J. Roe, Mayor

337
338 ATTEST:

339
340
341 _____
342 Patrick Trudgeon, City Manager
343

**City of Roseville
ORDINANCE NO. ____**

AN ORDINANCE AMENDING

TITLE 3 Chapter 309

**AN ORDINANCE AMENDING TITLE 3 CHAPTER 309 OF THE ROSEVILLE
CITY CODE TO AMEND REQUIREMENTS FOR MASSAGE ESTABLISHMENT
AND MASSAGE THERAPIST LICENSES**

THE CITY COUNCIL OF CITY OF ROSEVILLE ORDAINS:

SECTION 1: Title 3 Chapter 309 of the Roseville City Code is amended, restated
and renumbered to read as follows:

SECTION:

- 309.01: Purpose and Findings
- 309.02: Definitions
- 309.03: License Required, Exceptions
- 309.04: Granting, Denying, Suspending, or Revoking of Massage Therapy
Establishment Licenses
- 309.05: Granting, Denying, Suspending, or Revoking Of Massage Therapist
Licenses
- 309.06: Restrictions and Regulations for Massage Therapy Establishments and
Massage Therapist Licenses
- 309.07: Violations, Penalty

309.01: PURPOSE AND FINDINGS

The purpose of this Chapter of the city code is to prohibit massage businesses and services to the public except those licensed as massage therapy establishments and massage therapists pursuant to this Chapter. The licensing regulations prescribed herein are 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 freedom of protected speech or expression.

The City Council makes the following findings regarding the need to license massage therapy establishments and massage therapists and to prohibit all other types of massage businesses and services to the public.

- A. Persons who have bona fide and standardized training in therapeutic massage, health and hygiene can provide a legitimate and necessary service to the general public.

- B. 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.
- C. 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.
- D. 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.
- E. 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 that only employ persons with the training required by this ordinance. 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). (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, rehabilitation 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)

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 as, or solely under the direction and control of, a ~~duly~~ professional licensed by the Board of Medical Practice or the Minnesota Department of Health provided the massage is directly related to the medical or health treatment and is administered on the premises of the medical or health 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, 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. The owner/operator of a Massage Therapy Establishment need not be licensed as a massage therapist if he or she does not at any time practice or administer massage to the public.
- H. 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 REVOKING 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. 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 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
 - 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

- 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.
- E. Hours: No customers or patrons shall be allowed to enter or remain on the licensed premises before 8:00 A.M. or after 9:00 P.M. daily.
- F. The establishment may only provide services during business hours which must be posted on the door. Except in the case of a Massage Establishment where the license is held by the sole Licensed Therapist at the business, 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:
1. 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)
 2. Therapist: Any massage therapists performing any massages shall at all times have their breasts and his/her buttocks and genitals covered with a nontransparent material. (Ord. 1142, 6-13-94)
- K. Massage of certain body parts prohibited. At no time shall the massage therapist intentionally massage or offer to massage the breasts, 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 therapy establishments 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.

Signatures as follows on separate page:

*Ordinance –AN ORDINANCE AMENDNG TITLE 3 CHAPTER 309 OF THE
ROSEVILE CITY CODE TO AMEND REQUIREMNTS FOR MASSAGE
ESTALBISHMENT AND MASSAGE THERAPIST LICENSES.*

(SEAL)

CITY OF ROSEVILLE

BY: _____
Daniel J. Roe, Mayor

ATTEST:

Patrick Trudgeon, City Manager

City of Roseville
ORDINANCE SUMMARY NO. ____

**APPROVING PUBLICATION OF AN ORDINANCE SUMMARY OF THE
AMENDMENT TO TITLE 3, SECTION 309 OF THE
ROSEVILLE CITY CODE IN ORDER TO AMEND CERTAIN
REQUIREMENTS FOR MASSAGE ESTABLISHMENT AND
MASSAGE THERAPIST LICENSES.**

SECTION 1: The City Council of the City of Roseville, on April 24, 2023, adopted Ordinance No. 1631. Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps.

The City Council has determined that the following summary would clearly inform the public of the intent and effect of the ordinance.

SECTION 2: The following is the official summary of Ordinance No. ____ approved by the City Council of Roseville on April 24, 2023 and directs the City Clerk to publish the title and summary as follows in the official newspaper in lieu of the entire ordinance:

On April 24, 2023, the City Council of the City of Roseville adopted Ordinance No. ____, an ordinance: "The Amendment to Title 3, Section 309 Of The Roseville City Code In Order To Amend Certain Requirements For Massage Establishment And Massage Therapist Licenses." The Ordinance amends the requirements for issuance of the licenses.

SECTION 3: A printed copy of the full ordinance is available for inspection by any person 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 summary shall also be posted on the Internet web page of the City of Roseville (www.cityofroseville.com).

ATTEST:

Patrick Trudgeon, City Manager