

ORDINANCE NO. 2024-01
AN ORDINANCE AMENDING THE ROCKFORD CITY CODE
BY ENACTING SECTION 612, LICENSING AND REGULATION OF
MASSAGE BUSINESSES AND SERVICES

THE CITY COUNCIL OF THE CITY OF ROCKFORD, MINNESOTA DOES HEREBY ORDAIN:

Section 1: That City Code is hereby amended by the addition of Section 612 - Massage Businesses and Services which shall read as follows:

Section 612 – Massage Business and Services

612.01. – Purpose.

The purpose of this chapter is: 1) to establish standards and regulations for massage businesses and services commercially available to the public that protect the health, safety, and general welfare of the public, and 2) to provide standards and mechanisms protecting against exploitative and illicit conduct including but not limited to human trafficking and forced labor.

612.02 – Definitions.

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

Subd. 1. *Accredited Institution*. An educational institution holding accredited status with the United States Department of Education or Minnesota Office of Higher Education or similar agency of another state or a regional accrediting agency approved by the United States Department of Education.

Subd. 2. *Accredited Program*. A professional massage program or educational institution Accredited by the Commission on Massage Therapy Accreditation (COMTA).

Subd. 3. *City*. City of Rockford, Minnesota.

Subd. 4. *Clean*. The absence of dirt, grease, rubbish, garbage and other offensive, unsightly or extraneous matter.

Subd. 5. *Good Repair*. Free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions and similar defects so as to constitute a good and sound condition.

Subd. 6. *Healthcare Facility or Provider*. Any person providing medical, surgical, dental, chiropractic or osteopathic services, or physical therapy services pursuant to a prescription therefor, wherein practitioners licensed by the State, such as, but not limited to, a hospital, sanitarium, hospice, nursing home or other institution for the hospitalization and care of human beings duly licensed under the provisions of Minnesota Statutes Section 144.50 to 144.69.

Subd. 7. *Massage*. Any method of applying pressure on or friction against the external parts of the human body- including but not limited to rubbing, stroking, kneading, tapping, pounding, vibrating, stimulating, and/or rolling- with the hands or arms or with the aid of any mechanical or electrical apparatus, or other appliances or devices, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparations.

Subd. 8. *Massage Business*. The offering of massage services to the general public, regardless of whether the offer is limited to only select invitees or organizational members, including massage services conducted as a home occupation, but excluding services conducted exclusively in the home of the massage customer either within or outside of the City.

Subd. 9. *Massage Therapist*. An individual who practices or administers massage to the public who can demonstrate to the Issuing Authority that he or she:

(1) has current insurance coverage of five hundred thousand dollars (\$500,000) for professional liability in the practice of massage;

(2) is affiliated with, employed by, or owns a therapeutic massage business licensed by the City; and

(3) has completed five hundred (500) hours of certified therapeutic massage training from an Accredited Institution or Accredited Program approved with curriculum content that includes subjects of anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice, and has provided either an original or certified transcript of said training.

Subd. 10. *Operate*. To own, manage, or conduct, or to have control, charge, or custody over.

Subd. 11. *Person(s)*. Any individual, firm, association, partnership, corporation, limited liability company joint venture, or combination of individuals.

Subd. 12. *Sanitary*. Free from pathogenic microorganisms.

Subd. 13. *Therapeutic Massage Establishment*. A massage business that employs or hires licensed therapeutic massage therapists to provide therapeutic massage within the City for a fee or other consideration.

Subd. 14. *Within the City*. Any physical presence within the City, including mobile massage operations.

612.03 – Licenses.

Subd. 1. – License Required.

(1) Therapeutic Massage Establishment License. It shall be unlawful for any therapeutic massage establishment to operate, engage in, or carry or provide massage services within the City to the public for consideration without first having obtained a license from the City pursuant to this chapter. The owner/operator of a therapeutic massage establishment need not be licensed as a therapeutic massage therapist if he or she does not at any time practice or administer massage to the public.

(2) Massage Therapist License. It shall be unlawful for any person to practice, administer, or provide massage services to the public for consideration within the City without first having obtained a license from the City pursuant to this chapter, but excluding services conducted exclusively in the home of the massage customer either within or outside of the City.

(3) Retroactivity. The provisions of this chapter shall apply retroactively. Existing therapeutic massage establishments and massage therapists subject to the licensing requirements shall have until May 14, 2024 to submit the required license application and fees and conform to the requirements herein.

Subd. 2. – Exceptions.

Therapeutic massage establishment licenses and massage therapist licenses are not required under this chapter for the following places, and employees thereof, where massage services are provided by or under the direction of any of:

(1) Persons duly licensed as a doctor in this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, podiatry so long as the massage is administered in the regular course of the medical practitioner's practice to prepare a patient for a medical procedure, or in complement to a medical procedure previously performed on the patient and the massage is not provided as part of a separate and distinct massage business. Any licensed doctor offering any form of massage without a direct link to a medical procedure must obtain a massage therapist license.

(2) Persons working solely under the direction and control of a duly licensed medical professional licensed under Minn. Stat. Chapter 147 or 148 or a dental professional licensed under Minn. Stat. Chapter 150A, provided the massage is administered on the premises of the medical business.

(3) Places duly licensed or operating as a hospital, clinic, nursing home, hospice, sanatorium 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 part of a separate service.

(4) Athletic trainers, certified by the National Association of Athletic Trainers (NAAT), when working with an amateur, semiprofessional or professional athlete or athletic team.

(5) A student enrolled in any accredited institution that provides an accredited program of study or course work involving massage therapy, provided that the massage is provided during and as a part of the course or clinical component of the institution's program or course work and the students are supervised by an instructor while performing the massage therapy.

(6) Persons providing temporary massage services such as "chair massage" are not required to obtain a therapeutic massage establishment license if all of the following requirements are met:

- (a) The massage is provided in a place of business where the massage can easily be seen by any employee or visitor on the premises;
- (b) The establishment where the massage is being provided does not hold a license to sell alcoholic beverages;

- (c) Each recipient of a massage remains fully clothed in the normal daytime attire worn when he or she enters the establishment and does not remove any clothing, except outerwear such as a coat or jacket.

612.04 – License Application.

Subd. 1. Therapeutic Massage Establishment License Application. An application for a therapeutic massage establishment license shall be made on a form supplied by the City. All questions asked or information required by the application forms shall be answered fully and completely by the applicant. It shall be the continuing duty of each licensee to properly notify the City within ten business days of any change in the information or facts required to be furnished on the application for license. Failure to comply with this requirement shall constitute cause for denial, revocation or suspension of such license.

Subd. 2. Massage Therapist License Application. An application for a massage therapist license shall be made on a form supplied by the City. All questions asked or information required by the application forms shall be answered fully and completely by the applicant. It shall be the continuing duty of each licensee to properly notify the City within ten business days of any change in the information or facts required to be furnished on the application for license. Failure to comply with this requirement shall constitute cause for denial, revocation or suspension of such license. Photo I.D. cards will be issued to each massage therapist granted a license.

612.05. – License Fees.

The fees for a therapeutic massage establishment license and therapeutic massage license shall be established by the City Council from time to time. Each application for a license shall be accompanied by payment in full of the required license and investigation fees, as applicable.

612.06.-License Application Verification and Consideration.

Subd. 1. Background Investigation Release. Applicants for initial licenses shall also submit an executed release of information authorizing the Wright and Hennepin County Sheriff's Departments to obtain any information pertaining to the applicant's character or criminal history which may be deemed confidential, private, or privileged by the laws of the United States or of any state.

Subd. 2. Verification. The City may conduct any and all investigations deemed necessary by the City to verify the information provided by the applicant on the application form, including, but not limited to a criminal history inquiry and driver's license history. Within a reasonable period after receipt of a complete application form and applicable fees, and completion of the investigation, the City shall grant or deny the application. Notice shall be sent by regular mail to the applicant upon denial informing the applicant of the right to appeal to the City Council within 20 days. Failure to request a hearing within 20 days of receipt of the Notice shall be a waiver of the right to appeal. If an appeal is properly made the matter shall be placed upon the next available City Council agenda.

612.07. – Persons Ineligible for License.

Subd. 1. The City may deny issuance of an initial therapeutic massage establishment license or initial massage therapist license in any of the following circumstances:

- (1) The applicant is not 18 years of age or older at the time the application is submitted to the City;
- (2) The applicant has been convicted of any crime deemed by the City to be directly related to the massage business as prescribed by Minn. Stat. § 364.03, subd. 2, and who the City has determined has not shown competent evidence of enough rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by Minn. Stat. § 364.03, subd. 3;
- (3) The applicant has had an interest in, as an individual or as part of a corporation, limited liability company, partnership, association, establishment, business or firm, a massage license that was denied, revoked or suspended within the last ten years of the date the license application is submitted to the City;
- (4) The applicant is legally prohibited from working in the United States or has employed persons who are legally prohibited from working in the United States within the ten years preceding the current application;
- (5) The owner, operator, or any person who has a five percent financial interest in the business or the appointed on-site manager or agent applicant is not of good moral character or repute;
- (6) The applicant is not the real party in interest of the establishment.

(7) The applicant has knowingly misrepresented or falsified information on a license application or failed to provide all information required by the application form, or has misrepresented, falsified or omitted information on any prior application within the ten years preceding the current application;

(8) The applicant does not meet the definition of therapeutic massage therapist or therapeutic massage establishment (as applicable) as defined in this chapter;

(9) The applicant does not have adequate insurance coverage in effect as required by this chapter;

(10) The applicant owes taxes or assessments to the state, county, school district, or City that are due and delinquent;

(11) The applicant is an individual or is the spouse of an individual whose massage-related license has been suspected or revoked in the past five years.

Sec. 8-9. – Locations Ineligible for Therapeutic Massage Establishment License.

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

(b) Improper Zoning. No therapeutic massage establishment shall be licensed if the location of such establishment has not obtained any required land use approval as outlined in the City's zoning code.

612.08 – General License Requirements and Restrictions.

Subd. 1. Posting. A current therapeutic massage establishment license shall be posted in a conspicuous place on the premises at which the massage business is conducted. Upon demand of the City Administrator or designee, a therapeutic massage establishment shall also immediately produce a current and complete list of all licensed massage therapists who are employed by the therapeutic massage establishment. An individual licensed as a massage therapist shall also post his/her massage therapist license, with color photo, in a conspicuous place on the premises at which the therapist is

associated. A massage therapist shall produce his or her massage therapist license upon demand by the City Administrator.

Subd. 2. Premises Licensed. A therapeutic massage establishment license is only effective for the compact and-contiguous space specified in the approved license application. If the licensed premises at which the massage business is conducted is enlarged, altered, or extended, the licensee shall inform the City within ten business days of such event. Failure to comply with this requirement shall constitute cause for revocation or suspension of such license.

Subd. 3. Transfer of License Prohibited. Licenses issued by the City are issued to the applicant only and are non-transferrable. An attempt to transfer a license from one person to another or from one establishment to another is a violation of this chapter which may subject the licensee to suspension or revocation.

Subd. 4. Affiliation With Therapeutic Massage Establishment Required. A massage therapist shall be employed by, affiliated with, or own a licensed therapeutic massage establishment, unless a person or place is specifically exempted from obtaining a therapeutic massage establishment license by this chapter.

Subd. 5. Employment of Unlicensed Massage Therapists Prohibited. No therapeutic massage 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 by this chapter from obtaining a massage therapist license. A therapeutic massage establishment may not open for business without a licensed massage therapist employed by or affiliated with the therapeutic massage establishment.

Subd. 6. Hours of Operation. No customers or patrons may be allowed to enter the licensed premises after 9:00 p.m. and before 7:00 a.m. daily. No customers or patrons may be allowed to remain on the licensed premises after 9:00 p.m. and before 7:00 a.m. daily. No massage therapist shall perform massage services after 9:00 p.m. and before 7:00 a.m. daily. Business hours must be posted on all public entryways into the massage facility.

Subd. 7. Coverage of Genitals During Massage. The licensee shall require and ensure that the individual who is receiving the massage shall at all times have his or her genitals, breasts, buttocks, and anus covered with nontransparent material or clothing.

Subd. 8. Massage Therapist Clothing Requirements. Any massage therapist performing a massage shall at all times be dressed professionally, shall have his or her

breasts, buttocks, anus, and genitals covered with a non-transparent material or clothing and shall prominently display or wear their photo identification card.

Subd. 9. Effect of License Suspension or Revocation. No licensee shall solicit business or offer to perform massage services while under license suspension or revocation by the City.

Subd. 10. Inspection. During any hours in which any person is present on the licensed premises, the premises licensed under this chapter shall be open to inspection by any duly authorized representative of the City to determine whether or not this chapter and all other rules, laws and regulations are being observed. With reasonable notice, the business records of the licensee, including income tax returns, shall be available for inspection by the City during hours when the massage business is open for business. Licensee shall be subject to a fee for a third inspection, if orders to correct are issued to a licensee and those orders are not corrected upon re-inspection. All persons, as a condition to being issued such license, consent to such inspection and without a search warrant. All massage business premises shall be in good repair, clean and sanitary and meet the requirements of the City and state building and fire codes.

Subd. 11. Therapeutic massage establishments shall not contain nor allow the use by any person of sleeping quarters or living spaces of any kind intended for habitation, including but not limited to beds, cots, or mattresses.

Subd. 12. Massage tables, chairs, and other furniture on which massages are performed shall either be covered with clean linen or be washed after each use with a cleaning agent sufficient to prevent the spread of disease. Linens and towels shall be changed after each use and laundered by a commercial cleaning establishment or in approved laundry facilities on the premises.

Subd. 13. Posting Rates. All therapeutic massage establishments must post their service rates in a prominent place in the entrance or lobby of the business.

Subd. 14. Illegal Activities. Advertising by a licensee or representative of the licensee of any potential unlawful, misleading, sexually explicit, obscene or erotic conduct or massage at the licensed establishment shall be prohibited. A licensee shall be strictly responsible under this chapter for the conduct of the business, including the actions of any employee or agent of the licensee on the licensed premises.

612.09 – Term, Renewal of License.

Subd. 1. The term of licenses granted under this chapter is from January 1 through the following December 31. If a person submits an application for a license to be issued under this chapter any time following January 1 of a calendar year, the terms of any such license shall expire on December 31 of the year following issuance of the license. The license fee for a partial calendar year may be pro-rated to one-half of the annual fee if an application is filed with the City after June 30.

Subd. 2. A licensee must annually submit an application to be renewed with the required fee. The application shall be submitted to the City at least forty-five days prior to December 31st and shall be made on the City's application form.

Subd. 3. Within a reasonable period after completion of the renewal license verification process the City shall issue or deny the license in accordance with this chapter. The notice and appeal provisions set forth in Section 612.06, Subd. 2 shall apply.

612.10. – Sanctions for License Violations.

Subd. 1. Suspension or Revocation. The City may impose an administrative penalty, or the license may be suspended, revoked or not renewed for any of the following reasons:

- (1) Fraud, misrepresentation, or false statement contained in a license application or a renewal application.
- (2) Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.
- (3) Any violation of this chapter or state law.
- (4) A conviction by any licensee that is directly related to the occupation or business licensed as defined by Minn. Stat. § 364.03, subd. 2.
- (5) Conducting the licensed massage business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.
- (6) If the owner, manager, lessee or any of the employees are found to be in control or possession of an alcoholic beverage, a narcotic drug or controlled substance on the premises, other than drugs which may

be purchased over the counter without a prescription or those for which the individual has a prescription.

- (7) If the holder of an establishment license fails to maintain with the City a current list of all employees of such licensed premises. The list shall include all massage therapists licensed under this chapter.
- (8) A police report and/or law enforcement investigation report regarding a licensed therapeutic massage enterprise or therapist is deemed by the City to contain a credible allegation of prostitution, sex trafficking or criminal sexual conduct.

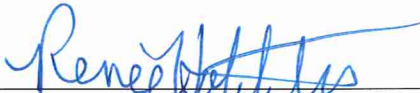
Subd. 2. Notice and Hearing. A revocation or suspension shall be preceded by written notice to the licensee and a hearing before the City Council. The notice shall give at least ten (10) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the licensee's license application.

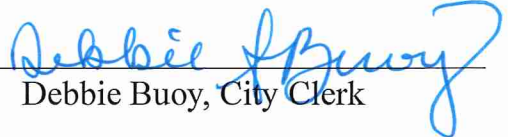
Subd. 3. Ability to Reapply After Revocation. If a license is revoked pursuant to this chapter, the City shall not accept or consider a new license application from the licensee whose license was revoked for a period of one (1) year after revocation.

612.11 – Penalties.

In addition to license sanctions, a person or entity that violates the provisions of this chapter is guilty of a misdemeanor, and shall be punished by a fine or imprisonment or both, together with the costs of prosecution. Each violation of this chapter shall constitute a separate offense.

Passed by the Council this 12th day of March, 2024.

By: 
Renee Hafften, Mayor

By: 
Debbie Buoy, City Clerk

This ordinance was published on March 21st, 2024 in the Wright County Journal Press.