

**CITY OF NORTH OAKS
ORDINANCE 113
TO REGULATE THERAPEUTIC MASSAGE ESTABLISHMENTS
AND MASSAGE THERAPISTS**

Adding Title XI, Section 113 of the North Oaks Code of Ordinances relating to Licenses and Business Regulations for Therapeutic Massage and Establishments.

The City Council of the City of North Oaks does ordain as follows:

That the North Oaks Code of Ordinances be amended by adding thereto a new Section 113 to read as follows:

§ 113.10. PURPOSE.

The purpose and intent of this Ordinance is to regulate Therapeutic Massage Establishments and Massage Therapists, as defined herein, in order to protect and promote the public health, safety and welfare by:

- A. Providing a clean, sanitary, healthy and safe environment in which Massage Therapists can operate.
- B. Recognizing Therapeutic Massage as a legitimate business occupation.

§ 113.20. DEFINITIONS.

As used in this Section, the following terms shall mean:

- A. "Therapeutic Massage" shall mean, for the purposes of this ordinance, services consisting of or relating to any method of the manipulation of soft body tissue (muscle, connective tissue, tendons and ligaments), including but not limited to applying pressure to, or friction against, or rubbing, stroking, kneading, tapping or rolling of the external parts of the human body.
- B. "Massage Therapist" shall mean any person who offers Therapeutic Massage.
- C. "Therapeutic Massage Establishment" shall mean any place wherein Therapeutic Massage is conducted by a Massage Therapist.
- D. "City" shall mean the city of North Oaks located in Minnesota.
- E. "Applicant" shall mean either the owner of the Therapeutic Massage Establishment or the Massage Therapist, who applies for the license.
- F. "Responsible Person" shall mean a parent or guardian of a minor.

§ 113.30. EXEMPTIONS.

The following persons are exempt from compliance with the provisions of this Section: Persons licensed or registered to practice medicine, surgery, nursing, osteopathy, chiropractic, dentistry, physical therapy, or podiatry, and individuals performing Therapeutic Massage under the direction of such persons, provided that they are rendering Therapeutic Massage within their scope of employment.

§ 113.40. LICENSE REQUIRED.

Except as otherwise provided herein, no person shall provide Therapeutic Massage or engage in the business of operating a Therapeutic Massage Establishment, without first obtaining a license issued by the City. The license of a Therapeutic Massage Establishment and the license of each Massage Therapist must be displayed prominently on its premises.

§ 113.50. LICENSE REQUIREMENTS.

- A. Investigations. The City is empowered to conduct any and all investigations to verify the information on applications submitted under this section, including ordering a criminal history inquiry and/or a driver's license/identification history inquiry on the Applicant or persons listed in the application, and any other inquiry deemed necessary by the City or its agents.
- B. Application for a Therapeutic Massage Establishment. The application for a license, or renewal of a license, for a Therapeutic Massage Establishment shall be made only upon forms furnished by the City and when completed by the Applicant, shall be filed with the City, and shall contain the following information:
 1. Names and addresses of the business owner, the manager or operator and, if a corporation, and names and addresses of the officers of such corporation.
 2. Names of all persons performing Therapeutic Massage in the Therapeutic Massage Establishment, including any names they have ever used or been known by.
 3. A statement as to whether the persons named in Section 113.50(B) have had any license denied, revoked or suspended, and the reason therefor.
 4. Applicant shall include information about past applications for a license with the City for operating a Therapeutic Massage Establishment, including if the application was denied or the license was revoked or suspended and the reason therefor.
 5. A description of any crime or other offense, including the time, place, date and disposition for which any of the persons required to be named in Section 113.50(B) have been arrested and convicted.
 6. Proof of Insurance and policy coverage.
 7. The applicant shall report any disciplinary action recorded by the Office of Unlicensed Complementary and Alternative Health Care Practice in the Minnesota Department of Health, Health Occupations Program and/or from other similar state agencies, of any employee of the Therapeutic Massage Establishment.
 8. A description of services to be offered related to Therapeutic Massage.

- C. Application for a Massage Therapist. The application for a license, or renewal of a license, for a Massage Therapist shall be made only upon forms furnished by the City and when completed by the Applicant shall be filed with the City, and shall contain the following information:
1. The name, address and birth date of the Applicant.
 2. A statement as to whether the Applicant has received a Comprehensive Certificate of Massage from a school recognized by the Minnesota Higher Education Board, or certification or licensing from an equivalent accredited out of state institution and be a member in good standing of the Minnesota Therapeutic Massage Network or the American Massage Therapy Association or other organizations possessing the same or similar standards and having an enforceable code of ethics.
 3. A statement whether or not the Applicant has had any license denied, revoked or suspended and the reason therefor.
 4. A description of any crime or other offense, including the time, date and disposition, for which any of the persons named in Section 113.50(B) have been arrested and convicted.
- D. The application shall not be granted, or any granted license shall be subject to discipline, if one or more of the following is found to be true:
1. Except in the case of a corporation, the Applicant is under eighteen (18) years of age.
 2. A Massage Therapist is under eighteen (18) years of age.
 3. A Massage Therapist is not a United States citizen or lawfully authorized to work in the United States.
 4. A Massage Therapist has not received a Comprehensive Certificate of Massage from a school recognized by the Minnesota Higher Education Board, or certification or licensing from an equivalent accredited out of state institution and be a member in good standing of the Minnesota Therapeutic Massage Network or the American Massage Therapy Association or other organizations possessing the same or similar standards and having an enforceable code of ethics.
 5. The Applicant, any employee or any contractor has been convicted of a felony, any sexually oriented crime, ordinance violation or any conducted prohibited by Minnesota statutes 146A.08.
 6. The Applicant, any employee, or any contractor has been required to register as a predatory offender under Minnesota statute Section 243.166 or similar law in Minnesota or elsewhere.
- E. Applicant. The Applicant shall comply with the following:
1. The Applicant shall make an inquiry to determine that all of Section 113.50(D) is complied with prior to filing an application for a license.
 2. Applicant shall inform the City promptly if any part of Section 113.50(D) is found not to be true, or becomes not true.
 3. In the case of an application for a Therapeutic Massage Establishment, employment records, including copies of documents used to determine if the employee, agent, or contractor is eighteen (18) years of age or older, for each employee employed by a licensed Therapeutic Massage Establishment shall be kept at the licensed premises and available for immediate review upon request of

a city officer. Documents that are acceptable forms of identification can be found in Minnesota Rule Part 7410.0100.

4. Applicant shall promptly notify the City of any changes or corrections to the information provided in the application.
- F. License fees and Investigation Fees. The annual fee for a license and the investigation fee for the purpose of establishing a licensed Therapeutic Massage Establishment shall be determined from time to time by resolution or ordinance of the City Council. If the license is denied by the City, then no part of the application fee or the investigation fee shall be returned. No part of the annual license fee shall be refunded if the license is suspended, revoked, or discontinued.

§ 113. 60. LICENSE EXPIRATION.

Licenses issued under this Section shall expire on December 31st of each year.

§ 113.70. THERAPEUTIC MASSAGE ESTABLISHMENT REGULATIONS.

A Therapeutic Massage Establishment shall protect the public from the unprofessional, improper, incompetent and unlawful practice of Therapeutic Massage. A Therapeutic Massage Establishment shall comply with the following regulations:

- A. The premises shall comply with applicable zoning, fire, health, building codes, and licensing inspection and be open to inspection by licensing inspectors, police officers, city officials, or building managers.
- B. The premises and equipment shall be clean, sanitary and well maintained.
- C. The Therapeutic Massage Establishment, any person in their employ and any contractors shall comply with all applicable city, county, state or federal ordinances, regulations and laws which are applicable to the premises and the practice of Therapeutic Massage. The Therapeutic Massage Establishment shall obtain and maintain all other licenses or permits which may be applicable.
- D. The Therapeutic Massage Establishment and any person in their employ and any contractors shall permit inspections during regular business hours by the City's law enforcement agency, city manager, building inspector, or appropriate fire or health officials to determine compliance with the city regulations or other appropriate state or county regulations.
- E. No alcohol may be sold on the premises.
- F. The Hours of Operation shall be limited to no earlier than 6:00 a.m. and no later than 9:00 p.m.
- G. No minor under the age of eighteen (18) shall be permitted to receive Therapeutic Massage unless consent is given by a parent or guardian. Such consent must be signed in the presence of the Therapeutic Massage Establishment operator.
- H. No residential use is allowed on the premises. Furniture used in Therapeutic Massage must not be intended for sleep.
- I. Massage Therapists must be fully clothed such that they do not expose his/her breasts, buttocks, or genitals.
- J. Sanitation and health requirements must be met in the Therapeutic Massage Establishment premises, including as follows:

1. Employees, agents and contractors must take reasonable steps to prevent the spread of infections and communicable diseases on the licensed premises.
2. Toilet room(s) must be adequately and conveniently located on the premises for the accommodation of its employees and patrons. The toilet room(s) must be kept clean and in good repair and be fully and adequately illuminated and well ventilated and enclosed with a door.
3. Single service disposal paper or clean linens to cover the table, chair, furniture or area on which the patron receives the massage and must be sanitized after each massage.
4. Massage tables, chairs or furniture on which the patron receives the massage must have surfaces that can be readily cleaned and disinfected after each massage.
5. Massage Therapist's must wash their hands and arms with water and soap, antibacterial scrubs, alcohol or other disinfectants prior to and following each massage service performed.

§ 113.80. INSURANCE REQUIRED.

Therapeutic Massage Establishments must have and maintain in full force and effect, a policy of liability and malpractice insurance issued by an insurance company licensed to do business in the state of Minnesota covering death, personal injury and property damage in the minimum amount of Three Hundred Thousand (\$300,000) Dollars per person and per occurrence.

§ 113.90. ADVERSE LICENSE ACTION; GROUNDS.

It shall be grounds for denial, revocation, nonrenewal, suspension or any other appropriate adverse license sanction if the licensee, or any of its employees, agents or contractors:

- A. Fails to comply with or has a history of violations of this ordinance or the laws and ordinances that apply to public health, safety and morals.
- B. Is convicted of any violation, reasonably related to the licensed activity and/or occurring on the licensed premise, of any city ordinance or federal or state statute.
- C. Has evidenced in the past willful disregard for health codes and regulations.
- D. The applicant gave false or misleading information during the application process or failed to provide all information and certificates required by this Section.
- E. The Therapeutic Massage Establishment has been operated without a valid Therapeutic Massage license or has operated when the license was suspended.
- F. The Applicant, or the responsible person, is delinquent in payment to the City of property taxes or fees related to the Therapeutic Massage Establishment.
- G. The Applicant or its employees, agents or contractors, refuses to permit any authorized police officers, building inspectors or city officials to inspect the premises or the operations.
- H. The City Council may base denial, suspension, revocation, or nonrenewal of a license upon any additional grounds which they may, in their sole discretion, determine to be sufficient cause.

§ 113.100. APPEAL.

If the license is suspended or revoked by the City Administrator, the license holder shall have a right to appeal to the City Council.

§ 113.110. SEVERABILITY.

If any provision of this Section is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall remain with full force and effect.

§ 113.120. EFFECTIVE DATE.

This ordinance becomes effective on the date of its publication.

Passed by the City Council this 9th day of April, 2015.

Michael Egelston
Mayor

Michael Robertson
City Administrator

Attested: