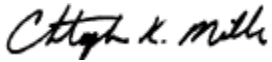


**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

Date: 06/19/2017  
Item No.: 7.j

Department Approval



City Manager Approval



Item Description: Request to Amend City Code Chapter 309: Massage Therapy

**BACKGROUND**

At the May 22, 2017 City Council meeting, the Council expressed support for changing the process of approving/denying individual massage therapist licenses at the City Council level to an administrative one. This change would make the process consistent with other individual licenses such as residential and commercial contractors. The Council also expressed their support for retaining approval/denial over massage therapy establishments.

The change from a Council to an administrative approval process for massage therapists does require minor modifications to City Code Chapter 309. Staff is also suggesting additional updates to the language to better define the process by which licenses are approved, denied, or revoked.

A marked-up version of City Code Chapter 309 is included in *Attachment A*, while an ordinance and ordinance summary are included in *Attachments B & C*. City Staff will be available during the meeting to address any Council inquiries.

In addition, the City Council has also expressed support for statewide licensing of massage therapists – a topic of proposed legislation in recent years. *Attachment D* contains a resolution memorializing the Council’s support for future legislation requiring statewide licensing or registration of massage therapists.

**POLICY OBJECTIVE**

Not applicable.

**FINANCIAL IMPACTS**

Not applicable.

**STAFF RECOMMENDATION**

Not applicable.

**REQUESTED COUNCIL ACTION**

- Motion #1: Approve an ordinance revising City Code Chapter 309: Massage Therapy
- Motion #2: Approve an ordinance summary revising City Code Chapter 309: Massage Therapy
- Motion #3: Adopt the attached resolution supporting statewide licensure or registration for massage therapists.

Prepared by: Chris Miller, Finance Director  
Attachments: A: Marked Up Version of City Code Chapter 309: Massage Therapy  
B: Draft Ordinance  
C: Draft Ordinance Summary  
D: Resolution Supporting Statewide Licensure or Registration for Massage Therapists

## CHAPTER 309

### MASSAGE THERAPY ESTABLISHMENTS

#### SECTION:

- 309.01: Definitions
- 309.02: License for Massage Therapy Establishment
- 309.03: Granting, Denying or Rescinding of Massage Therapy Establishment Licenses
- 309.04: License for Practice of Massage Therapists Therapy Only by Licenses Persons
- 309.05: Revocation or Suspension of Massage Therapist Licenses
- 309.06: Restrictions and Regulations
- 309.07: Violations, Penalty

#### **309.01: DEFINITIONS:**

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

**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 309.04 (A). (Ord. 1329, 11-14-05)

**MASSAGE THERAPIST:** A person who practices massage therapy.

**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 massage therapist for a fee; where massages are given on more than 14 calendar days in any given calendar year. (Ord. 1329, 11-14-05)

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

#### **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: GRANTING, DENYING OR RESCINDING REVOKING OF MASSAGE THERAPY ESTABLISHMENT LICENSES:**

- A. 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)
- B. Building, Safety and Sanitation Regulations: Licenses may be denied **or rescinded, 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.
- C. Fraud or Deception: Licenses may be denied **or rescinded, revoked or not renewed** if there is any fraud or deception involved in the license application.
- D. History of Violations: Licenses may be denied or rescinded if the applicant, licensee or employee of the same fails to comply with, or have a history of violations of the laws or ordinances which apply to health, safety or moral turpitude.
- E. 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)

### **309.04: LICENSE FOR PRACTICE OF MASSAGE THERAPISTS THERAPY ONLY BY LICENSED PERSONS:**

- A. Application for License: Any person **or business** desiring to be licensed as a massage **therapist therapy establishment** shall file an application on forms provided by the City Manager. The application shall contain such information as the City Manager may require, including: (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.
- 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.
  - D. Denial of Application: The license application may be denied for any of the following reasons:
    - 1. Fraudulent Statements: The application contains false, fraudulent, or deceptive statements.
    - 2. Prior Conviction: The applicant has been convicted of or entered a plea of guilty within the previous three years to a violation of this Chapter or of any other law regulating the practice of massage, or of any law prohibiting criminal sexual conduct, prostitution, pandering, indecent conduct or keeping of a disorderly house.
    - 3. Noncompliance: The applicant has not complied with a provision of this Chapter.
    - 4. Underage: The applicant is less than eighteen (18) years of age. (Ord. 1142, 6-13-94)

### **309.05: DENYING, OR REVOCATION OR SUSPENSION OF MASSAGE THERAPIST LICENSES:**

- A **massage therapist** license may be **denied or** revoked **or suspended** for any of the following reasons:
- A. Application Fraud: Fraud, deception or misrepresentation in connection with the registration application.
  - B. Violation of Chapter: A violation of any provision of this Chapter.
  - C. Criminal Conviction: Conviction of a criminal sexual conduct, prostitution, pandering, indecent conduct or keeping a disorderly house.
  - D. Conviction Arising out of Practice of Massage Therapy: Conviction of any crime or ordinance violation arising out of the practice of massage therapy.
  - E. 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:**

- A. Display of License: Any person registered as a massage therapist hereunder shall display such license, or a true copy thereof, in a prominent place at such person's place of employment.
- 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: During business hours, all massage therapy establishments shall be open to inspection by City Building and License Inspectors, Health Officers and police officers.
- 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.

- 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. 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.
- G. 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.
- H. Locks on Doors: There shall be no locks on doors of massage rooms.
- I. 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 her breasts and his/her buttocks and genitals covered with a nontransparent material. (Ord. 1142, 6-13-94)
- J. 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)

**309.07: VIOLATIONS, PENALTY:**

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

**City of Roseville  
ORDINANCE NO. \_\_**

**AN ORDINANCE AMENDING  
TITLE THREE CHAPTER 309**

309 (Title), 309.03, 309.04, AND 309.05.

**TO AMEND SECTIONS OF THE CODE THAT ARE OUTDATED, AND TO ESTABLISH  
AN ADMINISTRATIVE APPROVAL/DENIAL PROCESS FOR INDIVIDUAL MASSAGE  
THERAPIST LICENSES**

THE CITY OF ROSEVILLE ORDAINS:

SECTION 1: Title Three, Chapter 309 of the Roseville City Code is amended to read as follows:

**309: MASSAGE THERAPY ESTABLISHMENTS:**

**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: GRANTING, DENYING OR RESCINDING REVOKING OF  
MASSAGE THERAPY ESTABLISHMENT LICENSES:**

- A. 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)
- B. Building, Safety and Sanitation Regulations: Licenses may be denied ~~or rescinded~~, 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.
- C. Fraud or Deception: Licenses may be denied ~~or rescinded~~, revoked or not renewed if there is any fraud or deception involved in the license application.

- 44 D. History of Violations: Licenses may be denied or rescinded if the applicant, licensee or  
45 employee of the same fails to comply with, or have a history of violations of the laws or  
46 ordinances which apply to health, safety or moral turpitude.
- 47 E. Additional Conditions: The City Council may attach such reasonable conditions to the  
48 license as it, in its sole discretion, deems to be appropriate. (Ord. 1142, 6-13-1994)  
49 (Ord. 1283, 6-16-03)

50 **309.04: LICENSE FOR PRACTICE OF MASSAGE THERAPISTS**  
51 **THERAPY ONLY BY LICENSED PERSONS:**

- 52 A. Application for License: Any person ~~or business~~ desiring to be licensed as a massage  
53 therapist therapy establishment shall file an application on forms provided by the City  
54 Manager. The application shall contain such information as the City Manager may require,  
55 including: (Ord. 1329, 11-14-05)
- 56 1. The applicant's full name, address, social security number and written proof of age.
  - 57 2. The name and address of the licensed massage therapy establishment by which the  
58 applicant expects to be employed.
  - 59 3. A statement concerning whether the person has been convicted of or entered a plea of  
60 guilty to any crime or ordinance violation and, if so, information as to the time, place and  
61 nature of such crime or offense.
  - 62 4. Proof that the applicant meets the following educational requirements:
    - 63 a. A diploma or certificate of graduation from a school approved by the American  
64 Massage Therapist Association or other similar reputable massage association; or
    - 65 b. A diploma or certificate of graduation from a school which is either accredited by a  
66 recognized educational accrediting association or agency or is licensed by the State or  
67 local government agency having jurisdiction over the school.
    - 68 c. Each applicant shall also furnish proof at the time of application of a minimum of 600  
69 hours of successfully completed course work in the following areas:
      - 70 (1) The theory and practice of massage, including, but not limited to, Swedish,  
71 Esalen, Shiatsu and/or foot reflexology techniques; and
      - 72 (2) Anatomy, including, but not limited to, skeletal and muscular structure and organ  
73 placement; and
      - 74 (3) Hygiene.
- 75 B. Fee: The annual license fee for a massage therapist is as established by the City Fee  
76 Schedule in Section 314.05. Ord. 1329, 11-14-05)
- 77 C. Review of Application: Notwithstanding Section 301.02 of City Code, License applications  
78 shall be reviewed and decided upon by the City Manager or designee and shall include a  
79 review by the Police Department.
- 80 D. Denial of Application: The license application may be denied for any of the following  
81 reasons:
  - 82 1. Fraudulent Statements: The application contains false, fraudulent, or deceptive  
83 statements.
  - 84 2. Prior Conviction: The applicant has been convicted of or entered a plea of guilty within  
85 the previous three years to a violation of this Chapter or of any other law regulating the  
86 practice of massage, or of any law prohibiting criminal sexual conduct, prostitution,  
87 pandering, indecent conduct or keeping of a disorderly house.
  - 88 3. Noncompliance: The applicant has not complied with a provision of this Chapter.



89 4. Underage: The applicant is less than eighteen (18) years of age. (Ord. 1142, 6-13-94)

90 **309.05: DENYING, OR REVOCATION OR SUSPENSION OF MASSAGE**  
91 **THERAPIST LICENSES:**

92 A massage therapist license may be denied or revoked ~~or suspended~~ for any of the following  
93 reasons:

94 A. Application Fraud: Fraud, deception or misrepresentation in connection with the registration  
95 application.

96 B. Violation of Chapter: A violation of any provision of this Chapter.

97 C. Criminal Conviction: Conviction of a criminal sexual conduct, prostitution, pandering,  
98 indecent conduct or keeping a disorderly house.

99 D. Conviction Arising out of Practice of Massage Therapy: Conviction of any crime or  
100 ordinance violation arising out of the practice of massage therapy.

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

103

104

105

106 Passed by the City Council of the City of Roseville this 19<sup>th</sup> day of June, 2017.

107

108 (SEAL)

109

110

111

112

113

CITY OF ROSEVILLE

114

115

BY: \_\_\_\_\_

116

117

Daniel J. Roe, Mayor

118

119

120

121

122 ATTEST:

123

124

125

126 BY: \_\_\_\_\_

127

Patrick Trudgeon, City Manager

128

129

**CITY OF ROSEVILLE  
ORDINANCE SUMMARY NO \_\_\_\_\_**

**A SUMMARY OF AN ORDINANCE AMENDING TITLE THREE, CHAPTER 309**

The following is the official summary of Ordinance No. \_\_\_\_\_ approved by the City Council of Roseville on June 19, 2017:

**AN ORDINANCE AMENDING TITLE THREE CHAPTER 309**

309 (Title), 309.03, 309.04, AND 309.05 are amended to replace outdated language, and to establish an administrative approval/denial process for individual massage therapist licenses.

A printed copy of the 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 is also posted on the internet web page of the City of Roseville ([www.cityofroseville.com](http://www.cityofroseville.com)).

Attest: \_\_\_\_\_

Patrick Trudgeon, City Manager

**EXTRACT OF MINUTES OF MEETING  
OF THE  
CITY COUNCIL OF THE CITY OF ROSEVILLE**

\* \* \* \* \*

1 Pursuant to due call and notice thereof, a regular meeting of the City Council of the City  
2 of Roseville, County of Ramsey, Minnesota, was duly held on the 19th day of June, 2017,  
3 at 6:00 p.m.

4  
5 The following members were present: Willmus, Etten, McGehee, Laliberte, Roe and the  
6 following members were absent: None

7  
8 Councilmember \_\_\_\_\_ introduced the following resolution and moved its  
9 adoption:

**RESOLUTION No. \_\_\_\_\_**

**RESOLUTION SUPPORTING STATEWIDE LICENSING OF MASSAGE  
THERAPISTS**

10  
11  
12  
13  
14  
15  
16 WHEREAS, the State of Minnesota does not currently license or register massage  
17 therapists; and

18  
19 WHEREAS, in the absence of any required statewide standards and regulations, cities,  
20 including Roseville, have entered into the traditional state domain of health-care licensure  
21 by requiring all massage therapists operating in the city to obtain a local license; and

22  
23 WHEREAS, as a result of local licensing for massage therapists, city staff and law  
24 enforcement has spent numerous hours conducting criminal background checks,  
25 researching massage therapist accreditation programs to ensure legitimacy and  
26 credibility, and monitoring the massage therapy establishments due to citizen complaints  
27 and concerns regarding activities of massage therapists; and

28  
29 WHEREAS, massage therapists often work in multiple establishments in multiple cities;  
30 and

31  
32 WHEREAS, due to the lack of a statewide database of massage therapists, problems  
33 occurring in one city may not be known by staff and law enforcement of other cities  
34 despite their best efforts to conduct criminal background checks.

35  
36 NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF  
37 ROSEVILLE, MINNESOTA, that the City of Roseville supports legislation that requires

38 statewide licensure or registration of massage therapists by the State of Minnesota that  
39 would not pre-empt the ability of cities to regulate massage therapy establishments.

40

41 The motion for the adoption of the foregoing resolution was duly seconded by  
42 Councilmember \_\_\_\_\_ and upon vote being taken thereon, the following voted in  
43 favor thereof: \_\_\_\_\_ and the following voted against the same:

44

\_\_\_\_\_

45

46 WHEAREUPON said resolution was declared duly passed and adopted.

47

