

**CITY OF ST. MICHAEL  
WRIGHT COUNTY, MINNESOTA  
ORDINANCE NO. 2302**

**AN ORDINANCE AMENDING THE ST. MICHAEL CITY CODE TO ENACT  
CHAPTER 117 FOR LICENSING AND REGULATION OF MESSAGE BUSINESSES  
AND SERVICES, AND AMENDING TABLE IV ZONING MAP TO INCLUDE  
PROPERTIES REZONED IN 2022.**

The City Council of the City of St. Michael ordains:

**SECTION 1.** The City Code is hereby amended to add Chapter 117, Massage Businesses and Services, to Title XI, Business Regulations as follows:

**CHAPTER 117: MASSAGE BUSINESSES AND SERVICES**

**§ 117.01 PURPOSE.**

The purpose of this chapter is to prohibit massage businesses and services to the public except those licensed by the city as therapeutic massage enterprises and massage therapists pursuant to this chapter. The license regulations prescribed herein are necessary in order to protect businesses that are operating legitimate enterprises, 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

**§ 117.02 DEFINITIONS.**

When 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 United States Department of Education or which has been licensed or registered by the Minnesota Office of Higher Education or similar agency of another state or a regional accrediting agency approved by the U.S. Department of Education.

***ACCREDITED PROGRAM.*** A professional massage program accredited by the Commission on Massage Therapy Accreditation (COMTA).

***CITY.*** City of St. Michael, Minnesota.

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

***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.

***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 are licensed by the State, such as, but not limited to, a hospital, sanitarium, rest home, nursing home, boarding home, or other institution for the hospitalization or care of human beings duly licensed under the provisions of Minnesota Statutes sections 144.50 to 144.69.

**MASSAGE BUSINESS:** The offering of massage services to the general public, regardless of whether the offer is limited only to select invitees or organizational members.

**MASSAGE.** Any method of pressure on, or friction against, or the rubbing, stroking, kneading, tapping, pounding, vibrating, stimulating, or rolling of the external parts of the human body with the hands or arms 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.

**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 of \$500,000 for professional liability in the practice of massage;
- (2) Is affiliated with, employed by, or owns a therapeutic massage enterprise licensed by the city; and
- (3) Has completed 500 hours of certified therapeutic massage training with content that includes the subjects of anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice from an accredited program or accredited institution that has been approved by the issuing authority. These training hours must be authenticated by a single provider through a certified copy of the transcript of academic record from the school issuing the training, degree or diploma.

**OPERATE:** To own, manage or conduct.

**PERSON.** Any individual, firm, association, partnership, corporation, limited liability company, joint venture, or other combination of individuals.

**SANITARY:** Free from pathogenic microorganisms.

**THERAPEUTIC MASSAGE ENTERPRISE.** A person who operates a business or other operation which hires only licensed massage therapists to provide massage to the public. The owner/operator of a therapeutic massage enterprise need not be licensed as a massage therapist if he or she does not at any time practice or administer massage to the public.

**WITHIN THE CITY.** Includes physical presence as well as telephone referrals such as phone-a-massage operations in which the business premises, although not physically located within the city, serves as a point of assignment of employees who respond to requests for services from within the city.

### **§ 117.03 LICENSE REQUIREMENTS.**

(A) *Therapeutic massage enterprise license.* It shall be unlawful for any person to operate, engage in, provide or carry on, within the city, any type of massage services to the public for consideration without first having obtained a therapeutic massage enterprise license from the city pursuant to this chapter.

(B) *Massage therapist license.* It shall be unlawful for any individual to practice, administer, or provide massage services to the public for consideration within the city without first having obtained a massage therapist license from the city pursuant to this chapter.

(C) *Retroactivity.* The provisions of this chapter shall apply retroactively. Existing therapeutic massage enterprises providing massage services to the public for consideration within the city, and massage therapists providing massage services to the public for consideration within the city, shall have until January 31, 2023 to submit the required license application and fees and conform to the requirements herein.

#### **§ 117.04 EXCEPTIONS.**

A therapeutic massage enterprise license or massage therapist license is not required for the following persons and places:

(A) 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. Any duly licensed doctor that offers any form of massage without a direct link to a medical procedure must obtain a massage therapist license.

(B) Persons working solely under the direction and control of a duly licensed medical professional licensed under M.S. Ch. 147 or 148 or dental professional licensed under M.S. Ch. 150A, provided the massage is administered on the premise of the medical business.

(C) Places 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.

#### **§ 117.05 LICENSE APPLICATION.**

(A) *Therapeutic massage enterprise license application.* An application for a therapeutic massage enterprise license shall be made on a form supplied by the city. Each applicant shall provide the information required by the city's application form. 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 revocation or suspension of such license.

(B) *Massage therapist license application.* An application for a massage therapist license shall be made on a form supplied by the city. Each applicant shall provide the information required by the city's application form. 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 revocation or suspension of such license.

#### **§ 117.06 LICENSE FEES.**

The fee for a therapeutic massage enterprise license and the fee for a massage therapist license shall be as set forth in the fee schedule in [§ 39.02](#) of this code. Each application for a license shall be accompanied by payment in full of the required license and investigation fees, as applicable.

#### **§ 117.07 LICENSE APPLICATION VERIFICATION AND CONSIDERATION.**

(A) *Therapeutic massage enterprise license.* The initial application for a therapeutic massage enterprise license shall be presented to the City Council for consideration, after the city has verified the information provided by the applicant for the initial license. 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 ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant. The City Council may grant or deny the license.

(B) *Massage therapist license.*

(1) *Verification and consideration.* Within a reasonable period after receipt of a complete application form and fee for a massage therapist license the city shall grant or deny the application. The city and/or the Wright County Sheriff's Office will conduct any and all investigations deemed necessary by the city to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant. Notice shall be sent by regular mail to the applicant upon a denial informing the applicant of the right to appeal to the City Council within 20 days. If an appeal is properly made, the matter shall be placed on the next available City Council agenda.

(2) *Photo I.D. cards.* Photo identification cards shall be issued to individuals receiving a massage therapist license.

#### **§ 117.08 PERSONS INELIGIBLE FOR LICENSE.**

(A) *Therapeutic massage enterprise license.* No therapeutic massage enterprise license shall be issued to a person who:

(1) Is an individual and is not 18 years of age or older at the time the application is submitted to the city.

(2) Has been convicted of any crime deemed by the city to be directly related to the massage business in accordance with the criteria set forth in M.S. § 364.03, Subd. 2 and who the city has determined has not shown, in accordance with the criteria set forth in M.S. §364.03, Subd. 3, competent evidence of sufficient rehabilitation and present fitness to engage in the massage business.

(3) Has had an interest in, as an individual or as an owner of a corporation, member of a limited liability company, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last five years of the date the license application is submitted to the issuing authority.

(4) Employs an individual who is not a citizen of the United States or a resident alien or is legally prohibited from working in the United States.

(5) Is not of good moral character or repute.

(6) Is not the real party in interest of the enterprise.

(7) Has knowingly misrepresented or falsified information on the license application or failed to provide all information required by the application form.

(8) Does not meet the definition of therapeutic massage enterprise in § [117.02](#) of this chapter.

(9) Owes property taxes or assessments to the city that are due and delinquent.

(10) Is an individual and is the spouse of a individual whose massage-related license has been suspended or revoked in the past five years.

(B) *Massage therapist license.* No massage therapist license shall be issued to an individual who:

(1) Is not 18 years of age or older at the time the application is submitted to the city.

(2) Has been convicted of any crime deemed by the city to be directly related to the massage business in accordance with the criteria set forth in M.S. § 364.03, Subd. 2 and who the city has determined has not shown, in accordance with the criteria set forth in M.S. §364.03, Subd. 3, competent evidence of sufficient rehabilitation and present fitness to engage in the massage business.

(3) Has held a license to provide massages, or has had an interest in a corporation, limited liability company, partnership, association, enterprise, business or firm, that has held a license to provide massages that was revoked or suspended within five years prior to the date the license application is submitted to the city.

(4) Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States.

(5) Is not of good moral character or repute.

(6) Has knowingly misrepresented or falsified information on the license application or failed to provide all information required by the application form.

(7) Is not affiliated with or employed by a therapeutic massage enterprise licensed by the city, or does not hold a therapeutic massage enterprise license issued by the city.

(8) Does not meet the definition of massage therapist in § [117.02](#) of this chapter.

#### **§ 117.09 LOCATIONS INELIGIBLE FOR THERAPEUTIC MASSAGE ENTERPRISE LICENSE.**

(A) *Delinquent taxes.* No therapeutic massage enterprise shall be licensed if such enterprise is located on property on which taxes, assessments, 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 M.S. §§ 278.01-278.13, questioning the amount or validity of taxes, the City Council may on application 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 enterprise shall be licensed if the location of such enterprise has not obtained a conditional use permit or other required land use approval as outlined in the city's zoning code.

#### **§ 117.10 LICENSE RESTRICTIONS.**

(A) *Posting of license.* A therapeutic massage enterprise license issued by the city must be posted in a conspicuous place on the premises at which the massage business is conducted. Upon the demand of the City Administrator or designee, a therapeutic massage enterprise must also

immediately produce a current and complete list of all licensed massage therapists who are employed by the therapeutic massage enterprise. A person licensed as a massage therapist shall also post his or her massage therapist license, with color photo, in a conspicuous place on the premises at which the massage therapist is associated. A massage therapist shall produce his or her massage therapist license upon demand by the City Administrator or designee.

(B) *Premises.* A therapeutic massage enterprise license is only effective for a massage business conducted at the compact and contiguous space specified in the approved license application. If the premises at which the massage business is conducted is changed, 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.

(C) *Transfer of license prohibited.* The license issued is for the person named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.

(D) *Affiliation with enterprise required.* A massage therapist shall be employed by, affiliated with, or own a massage enterprise business licensed by the city, unless a person or place is specifically exempted from obtaining a therapeutic massage enterprise license pursuant to § [117.04](#) of this chapter.

(E) *Employment of unlicensed massage therapists prohibited.* No therapeutic massage enterprise shall employ or use any individual to perform massage who is not licensed as a massage therapist under this chapter, unless the individual is specifically exempted from obtaining a massage therapist license pursuant to § [117.04](#) of this chapter.

(F) *Coverage of genitals during massage.* The licensee shall require and ensure that the individual who is receiving the massage shall at all time have his or her genitals covered with non-transparent material or clothing.

(G) *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 non-transparent material or clothing, and shall prominently display or wear their photo identification card.

(H) *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.

(I) *Massage of certain body parts prohibited.* At no time shall the massage therapist intentionally massage or offer to massage the penis, scrotum, mons veneris, vulva, or vaginal area of a person.

(J) *Restrictions regarding hours of operation.* No therapeutic massage enterprise shall be open for business, nor shall any massage therapist offer massage services, before 6:00 a.m. or after 9:00 p.m. any day of the week.

(K) *Proof of local residency required.* In the case of a therapeutic massage enterprise, the licensee, operator, managing partner, or manager thereof must show proof of residency within a 50 mile radius of the City of St. Michael.

(L) *Inspections.* In light of the high risk of involvement with illegal conduct a massage business providing massage services poses to the general public and in the interests of public safety, the city

Building Inspector and Fire Marshal, and the Wright County Sheriff's Office shall have the right to enter, inspect, and search the premises at which the massage services are being provided during the hours in which the massage services are being provided to ensure compliance with all provisions of this chapter and any other applicable sections of the City Code and State Building Code. Any entry into a private residence will require either consent, exigent circumstances, or a search warrant. With reasonable notice, the business records of the licensee, including income tax returns, shall be available for inspection by the city or the Wright County Sheriff's Office during the hours in which the massage business is open for business. The licensee is subject to a fee for a third inspection per the fee schedule, if orders to correct are issued to the licensee and those orders are not corrected upon re-inspection. Therapeutic massage enterprise and massage therapist licenses shall be granted only to provide massages at premises which meet the safety and sanitary requirements of the city and of the building code regulations of the city and state.

(M) *Posting of rates.* All therapeutic massage enterprise businesses must post their rates for service in a prominent place in the entrance or lobby of the premises at which such business is conducted.

(N) *Illegal activities.* Advertising by a licensee of any unlawful or erotic conduct or massage service is prohibited. A licensee under this chapter shall be strictly responsible for the conduct of the massage business and shall take all action necessary to ensure such massage business is being operated in compliance with all applicable laws and ordinances.

#### **§ 117.11 TERM, RENEWAL OF LICENSE.**

(A) The term of a massage therapist license and a therapeutic massage enterprise license is one year. If a person submits an application for a license to be issued under this chapter any time during a calendar year, the term of any such license shall expire June 30 of the following year of 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 December 31.

(B) Licenses must be renewed annually and the annual fee will be applied. A massage therapist license issued under this chapter shall expire on June 30 of the following year of issuance of the license. A therapeutic massage enterprise license issued under this chapter shall expire on June 30 of the following year of issuance of the license. An application for the renewal of an existing license shall be made at least 30 days prior to the expiration date of the license and shall be made on such form as the city requires.

(C) Within a reasonable period after the completion of the renewal license verification process, the city shall issue or deny the license in accordance with this chapter. If the application for a license is denied, the city shall notify the applicant of the determination in writing and by regular mail to the address provided on the application form. The notice shall inform the applicant of the right, within 20 days after receipt of the notice by the applicant, to request an appeal of the city's denial to the City Council. If a request for an appeal to the City Council is timely received by the city, the hearing before the City Council shall take place within a reasonable period after the city's receipt of the request for an appeal.

#### **§ 117.12 SANCTIONS FOR LICENSE VIOLATIONS.**

(A) *Suspension or revocation.* The City Council may impose a Class C administrative penalty as set forth in the fee schedule in §39.02 of this code, or suspend or revoke a license issued pursuant to this chapter, at its discretion, for:

(1) A violation related to fraud, misrepresentation, or false statement contained in a license application or a renewal application.

(2) A violation related to fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.

(3) Any violation of this code or state law.

(4) A conviction of any licensee that is directly related to the massage business as determined by the city in accordance with M.S. § 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 massage therapist or the owner, operator, manager, lessee, or any of the employees of a therapeutic massage enterprise are found to be in control or possession of 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 a therapeutic massage enterprise license fails to maintain with the city a current list of all employees of such massage business. 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 licensed massage therapist is deemed by the city community development director to contain a credible allegation of prostitution, sex trafficking, or criminal sexual misconduct.

(B) *Notice and hearing.* A revocation or suspension by the City Council shall be preceded by written notice to the licensee and a hearing. The notice shall give at least ten 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.

(C) *Reapplication.* If a license is revoked pursuant to this section, the city shall not accept or consider a new license application from the licensee whose license was revoked for a period of one year after revocation.

### **§ 117.99 PENALTIES.**

Any person or entity that violates the provisions of this chapter is guilty of a misdemeanor under Minnesota law, 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. Conviction for a violation of this chapter, while not required, may be grounds for the suspension or revocation of any license issued under this chapter.