

ORDINANCE NO. 1375

AN ORDINANCE AMENDING CHAPTER 125 OF THE FRIDLEY CITY CODE RELATED TO MASSAGE THERAPY BUSINESSES AND MASSAGE THERAPISTS

Staff has completed its review of Fridley City Code Chapter 125. Massage Therapy Business and Massage Therapists and has recommended amendments to this chapter. The Fridley City Council hereby finds after review, examination and recommendation that Fridley City Code Chapter 125 related to massage therapy be hereby amended and ordains as follows:

FRIDLEY CITY CODE

CHAPTER 125. MASSAGE THERAPY BUSINESSES AND MASSAGE THERAPISTS

SECTION ONE: That Chapter 125, Section 125.05(A)(9) of the Fridley City Code is hereby amended as follows:

Section 125.05. LICENSE APPLICATION

Section 125.05.1.A. Massage Therapy Business License Application

(9). Whether the applicant has had an interest in, as an individual or as part of a corporation, limited liability company, partnership, association, enterprise, business or firm, a massage therapist or massage business license issued by any city, county, or other licensing entity that was denied or recommended for denial, suspended, revoked or not renewed suspended within the last five (5) years from the date the license application is submitted to the City.

Section 125.05.1.B. Individuals

(6) Whether the applicant has ever been engaged in the operation of a massage therapy business or worked as a massage therapist. If so, applicant shall furnish information as to the name, place and length of time of the involvement in such an establishment and/or work as a massage therapist and state if the applicant has ever had a massage business or therapist license denied or recommended for denial, suspended, revoked, or not renewed in any other city.

Section 125.05.1.D. Corporations, Limited Liability Companies, and Other Organizations or Entities

For massage therapy business license applicants that are corporations, limited liability companies, or other types of organizations:

Section 125.05.2. Massage Therapist License Application

G. Whether the applicant has had an interest in, as an individual or as part of a corporation, limited liability company, partnership, association, enterprise, entity, business or firm, a massage license that was denied or recommended for denial, ~~revoked~~ suspended, ~~revoked or not renewed~~ within the last five (5) years from the date the license application is submitted to the City.

K. Whether the applicant is currently licensed in other states or communities to perform massage therapy, and if so, where as well as whether the applicant has ever had a massage related license denied or recommended for denial, suspended, revoked, or not renewed in any other community.

L. Whether the applicant has ever been engaged in the operation of a massage therapy business, and if so, information as to the name, place, dates and length of time of the involvement in such a business, including whether the business has ever had a license for the business denied or recommended for denial, suspended, revoked, or not renewed.

SECTION TWO: That Chapter 125, Section 125.06(3) and 125.06(4) of the Fridley City Code is hereby amended as follows:

3. If the license holder is a corporation, a new license application shall be submitted to the City within thirty (30) days whenever more than ten percent (10%) of the corporation's stock is transferred. If the license holder is a partnership, a new license application shall be submitted to the City within thirty (30) days whenever a partner is added to the partnership. If the license holder is a limited liability company, a new license application shall be submitted to the City within thirty (30) days whenever a transfer occurs of a transferable interest in the limited liability company.

~~4. After the completion of the initial license and renewal verification process for the Massage Therapy Business license, City staff shall present a memo recommending approval or denial of the business license to the city council in accordance with this section. If the license application is denied, the City Clerk shall notify the applicant of the determination in writing and by regular mail to the address provided on the application form within ten (10) business days of the denial.~~

SECTION THREE: That Chapter 125, Section 125.08 of the Fridley City Code is hereby amended as follows:

All applications shall be referred to the police chief, or designee, and such other city departments as the City Manager shall deem necessary for verification and investigation of the facts set forth in the application. The police chief, or designee, is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the application. The police chief, or designee, is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehension's Computerized Criminal History information system in accordance with BCA policy. The police chief, or designee, and other consultants shall make a written recommendation to the City Council as to the issuance or non-issuance of the Massage Therapy Business or Massage Therapist license. The City Council may order and conduct such additional investigation as it deems necessary. Upon completion of its investigation the City Council shall grant or deny the license following the process found in Section 125.10.

No investigation fee in part or whole shall be refunded. Out of state investigations shall require the applicant to pay actual out-of-pocket expenses. A deposit for an out-of-state investigation shall be required in advance as set forth in Chapter 11. The applicant shall be refunded any unused deposit upon completion of the investigation if the application is denied.

SECTION FOUR: That Chapter 125, Section 125.10 of the Fridley City Code is hereby amended as follows:

125.10. LICENSE DENIAL, SUSPENSION, OR REVOCATION

1. Grounds for Denial, Suspension, or Revocation of Licenses.

In addition to the grounds found elsewhere in the City Code for denial, suspension, or revocation, the following reasons are grounds for the denial, suspension, or revocation of a Massage Therapy Business or Massage Therapist license:

- A. 1. The applicant has been convicted of criminal prostitution, similar sex offenses, or other crimes directly related to the offering of massage therapy services or the running of a massage therapy business and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by Minnesota Statutes Section 364.03, subd. 3.
- B. 2. The applicant is a partnership, corporation, or other entity which has in its employ or is owned by any persons convicted of criminal prostitution, similar sex offenses, or other crimes directly related to the offering of massage therapy services or the running of a Massage Therapy Business.
- C. 3. The owner, manager, lessee or any of the employees are found to be in control or possession of any alcoholic beverages, narcotic drugs or controlled substances, as defined by state statutes, on the premises.
- D. 4. ~~If~~ The holder of a business license fails to maintain with the City a current list of all employees of such licensed premises. The list for the establishment shall include all massage therapists licensed under this chapter.
- E. 5. A material variance in the actual plan and design of the premises from the plans submitted.
- F. 6. There is any fraud, deception, or misstatement on the license application.
- G. 7. The owner, manager, lessee, or their employees or any massage therapist, are convicted of any ordinance violation or crime occurring on the licensed premises.
- H. 8. The licensed premises are not located in an approved zoning district, unless such business is a legally established non-conforming use, or otherwise do not meet the health and safety standards found within the City Code for the licensed premises. Fridley City Code Chapter 125 Section 125.11.1.B.
- I. 9. The applicant is delinquent upon its payment to the City of utilities, taxes, fines, or penalties assessed or imposed against the applicant or the business is located on property where taxes, assessments, utility charges, service charges, or other financial claims of the City or any other government unit are delinquent and unpaid. In the event a suit has been commenced under Minnesota Statutes, Sections 278.01 through 278.13, questioning the

amount or validity of the tax or claim, the City Manager, upon written application by the applicant, waive strict compliance with this provision while the suit is pending.

- J. ~~10.~~ The licensed activity is conducted in such a manner as to constitute a breach of the peace, a menace to the health, safety, or welfare of the public, or a disturbance of the peace or comfort of the residents of the City, upon recommendation of the police department or an appropriate City official.
- K. The premises where the business is located is not in full compliance with the State Building Code and Fire Code as well as all other relevant provisions of the City Code.
- L. The premises where the business is located does not have a separate, distinct, front-facing entrance if it is located within a building with multiple offices, suites, or stores.
- M. The applicant has had a massage-related license revoked or denied by a state, city, or other licensing authority within the past five (5) years.
- N. ~~11.~~ The licensee fails to continuously comply with all conditions required as precedent to approval of the license or fails to continuously comply with all provisions of this chapter.
- O. ~~12.~~ Based on the findings of a background investigation, granting a license would be a menace to the safety, health, morals, or welfare of the public.
- P. ~~13.~~ The applicant or licensee is not of good moral character.
- Q. ~~14.~~ The applicant or licensee is not the real party having an interest in of the enterprise.

~~The City Council may suspend or revoke a Massage Therapist or Massage Therapy Business license following provision of written notice to the licensee and a hearing. Notice shall be provided to the license holder in writing at least seven (7) days prior to 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 license application.~~

2. Suspension, Revocation and Denial Process and Appeal

After review of the initial or renewal license application, or upon information that a violation of the terms and conditions of a Massage Therapy Business License or a Massage Therapist license has occurred, if the position of the Public Safety Department is to recommend the City Council deny, suspend or revoke a Massage Therapist or Massage Therapy Business license, the Public Safety Department shall present written notice to the City Manager of such recommendation and a hearing shall be held prior to the denial of any license application or the suspension or revocation of any existing license.

- A. The City Manager shall notify the applicant or licensee of the recommendation in writing at least ten (10) business days prior to the hearing providing the basis for the recommendation of license denial, suspension, or revocation. The notice shall be mailed

by U.S. mail to the licensee or applicant at the most recent address listed on the license application.

B. The City Council shall hold a hearing regarding the recommendation to deny, suspend, or a revoke a Massage Therapy Business or Massage Therapist license and following such hearing, may take such action as it determines appropriate with respect to the issuance, suspension, or revocation of the license. Any such action taken by the City Council shall be the final decision on the City related to the license.

3. Ability to Apply or Reapply After Revocation or Denial.

A licensee or applicant for a Massage Therapy Business License or Massage Therapist License may not apply or reapply for a new license for a period of one (1) year following the denial or revocation of a license.

SECTION FIVE: That Chapter 125, Section 125.11 of the Fridley City Code is hereby amended as follows:

6. Therapist Dress Requirements. Any Massage Therapist providing massage services shall at all times be dressed professionally and must be fully clothed with nontransparent clothing when performing massage services.

11. Effect of License Suspension or Revocation. No person shall offer to perform massage services or shall solicit customers for a massage therapy business located within the City unless such person has a current massage therapist or massage therapy business license.

12. ~~Posting of Rates.~~ A licensed therapeutic massage business ~~must post the rates shall make rates available~~ for all massage services offered at the business. ~~in a prominent place in the entrance or lobby of the business.~~

13. Food Preparation. Food preparation on the premises of a licensed massage therapy business shall only occur in locations specifically designed for that purpose which are fully compliance with all building code requirements for such spaces. Use of food preparation areas shall be limited to employees on breaks occurring during regularly scheduled shifts.

14. Habitation. The premises of a Licensed Massage Business shall not contain sleeping quarters or living spaces of any kind intended for habitation, including but not limited to beds, cots, futons, or mattresses.

SECTION SIX: That Chapter 125, Section 125.12 of the Fridley City Code is hereby amended as follows:

5. Equipment. Except as provided in Section Six herein, all massage services shall be performed on a raised massage therapy table, ~~or chair; or mat similar to those used in yoga. no bed, mattress, or other similar type of equipment shall be allowed in areas where massage services are provided except for a mat similar to those used in yoga.~~

~~6. Prohibited Massage Equipment Services. No bed, mattress, couch, futon or similar type of equipment shall be allowed in areas where massage services are provided. Massage Services involving services provided to customers located on the floor or requiring a massage therapist to stand on a massage therapy table, including but not limited to Shiatsu, are strictly prohibited unless the Massage Therapist remains completely clothed and the massage therapist is certified in Shiatsu or other similar techniques by an approved institution or program.~~

SECTION SEVEN. That Chapter 125, Section 125.13 of the Fridley City Code is hereby amended as follows:

125.13. PENALTIES

Whoever does any act forbidden by this Chapter or omits or fails to do any act required by this Chapter shall be guilty of a misdemeanor and is subject to all penalties provided for such violations under the provisions of Chapter 901 of the Fridley City Code. Each separate violation of this section shall constitute a separate offense. Conviction of a violation of any provision of this Chapter, while not required, may be grounds for suspension or revocation of any license issued under this Chapter.

SECTION EIGHT: That Chapter 125, Section 125.14 of the Fridley City Code is hereby amended as follows:

~~125.14. EFFECTIVE DATE.~~

~~Ordinance No. 1356 shall be effective beginning on September 1, 2018, following its adoption and publication according to law. Current licensees shall pay a prorated fee for the 2018-19 license year. New licensees shall pay the full license fee when an application is made anytime during the 2018-19 license year.~~

SECTION NINE: Effective Date. This Ordinance shall be effective following its adoption and publication according to law.

SECTION TEN: That Chapter 125, Section 125.02 of the Fridley City Code is hereby amended as follows:

Section 125.02. Definitions

1. Accredited Institution

An educational institution holding accredited status with at least one of the a state or federally recognized accrediting agencies.

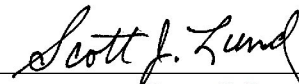
2. Accredited Program

A massage therapy program accredited by an educational institution holding accredited status in the field of massage therapy with at least one of the a state or federally recognized agencies.

7. Massage or Massage Services

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 hands, arms, or elbows, or feet, 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.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FRIDLEY THIS 9TH DAY OF SEPTEMBER 2019.



Scott J. Lund, Mayor

ATTEST:



Debra A. Skogen, City Clerk

First Reading: August 26, 2019
Second Reading: September 9, 2019
Publication Date: September 20, 2019