

SEC 6.27 MASSAGE ESTABLISHMENTS

Subd. 1. Purpose. The purpose of this article is to prohibit massage businesses and services to the public except those licensed as therapeutic massage establishment and massage therapists pursuant to this article. The licensing regulations prescribed herein are necessary in order to prevent criminal activity and to protect the health and welfare of the community. The purpose of this article is not intended to impose restrictions or limitations on the freedom of protected speech or expression.

Subd. 2. Finding of City Council. The City Council of the City of Becker makes the following findings regarding the need to license therapeutic massage enterprises and therapists and to prohibit all other types of massage businesses and services to the public:

1. Persons who have bona fide and standardized training in therapeutic massage, health, and hygiene can provide a legitimate and necessary service to the general public.
2. Health and sanitation regulations governing therapeutic massage enterprises and therapists can minimize the risk of the spread of communicable diseases and can promote overall health and sanitation.
3. Limiting the number of therapeutic massage enterprise licenses and license qualifications for the restrictions on therapeutic massage enterprises and therapists can minimize the risk that such businesses and persons will facilitate prostitution and other criminal activity in the community.
4. Massage services provided by persons with no specialized and standardized training in massage can endanger citizens by facilitating the spread of communicable diseases, by exposing citizens to unhealthy and unsanitary conditions, and by increasing the risk of personal injury.
5. Massage businesses which employ persons with no specialized and standardized training can tax city law enforcement services because such businesses are more likely to be operated as fronts for prostitution and other criminal activity than operations established by persons with standardized training.
6. The training of professional massage therapists at accredited institutions is an important means of ensuring the fullest measure of protecting the public health, safety, and welfare.
7. Premises where prior massage therapists have had their licenses revoked require a period of time where massage services should not be provided in order to avoid continuation of the same clientele and association of the location with unlawful services.

Subd. 3. Definitions. The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:

1. **Accredited Institution** means an educational institution holding accredited status approved by the United States Department of Education or Minnesota Office of Higher Education.
2. **Accredited Program** means a professional massage program or educational institution accredited by the Commission on Massage Therapy Accreditation (COMTA).
3. **Clean** means the absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.
4. **Good repair** means 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.
5. **Issuing authority** means the city clerk or designee.
6. **Massage** means 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 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.
7. **Massage therapist** means an individual who practices or administers massage to the public who can demonstrate to the issuing authority that he or she:
 - a. Has current insurance coverage of \$1,000,000.00 for professional liability in the practice of massage;
 - b. Is affiliated with, employed by, or owns a therapeutic massage enterprise licensed by the city; and
 - c. 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, accredited institution, or a program or institution licensed or verified by a state licensing board or agency 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. In the event the

accredited program or accredited institution is no longer in existence, in the sole discretion of the city, a certified copy of the transcript of academic record may be accepted directly from the applicant with an affidavit stating said transcript of academic record is authentic. The transcript of academic record must be from a program or institution that was once accredited and approved by the issuing authority. The certified copy of the transcript of academic record must contain the applicant's name, last address of the accredited institution at the time of closing, and reflect the 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 as required.

8. **Operate** means to own, manage, or conduct, or to have control, charge, or custody over.
9. **Person** means any individual, firm, association, partnership, corporation, joint venture, or combination of individuals.
10. **Therapeutic massage enterprise** means an entity which operates a business which hires only licensed therapeutic massage therapists to provide therapeutic massage to the public. The owner/operator of a therapeutic massage enterprise 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. A therapeutic massage enterprise may employ other individuals such as cosmetologists and estheticians, and these individuals are not required to have a massage therapist license as long as they are not providing therapeutic massage to the public.
11. **Within the city** means 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.

Subd. 4. License required.

1. **Therapeutic massage enterprise license.** It shall be unlawful for any person or entity to own, operate, engage in, 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 section.
2. **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 section.

Subd. 5. Exceptions. A therapeutic massage enterprise or therapist license is not required for the following persons and places:

1. Persons duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, or professional practices licensed or registered by this state and regulated by a governmental body with a board where concerns and complaints could be directed, provided the massage is administered in the regular course of the medical business and not provided as part of a separate and distinct massage business.
2. Persons duly licensed by this state as beauty culturists or barbers, provided such persons do not hold themselves out as giving massage treatments and provided the massage by beauty culturists is limited to the head, hand, neck, and feet and the massage by barbers is limited to the head and neck.
3. Persons working solely under the direction and control of a person duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry or professional practices licensed or registered by this state and regulated by a governmental body with a board where concerns and complaints could be directed
4. Places duly licensed or operating as a hospital, nursing home, hospice, sanitarium, or group home established for the hospitalization or care of human beings.
5. Students of an accredited institution who are performing massage services in the course of a clinical component of an accredited program of study, provided that the students are performing the massage services at the location of the accredited institution or provided the students are limited to performing massage therapy only on owners or staff of licensed massage enterprises and not on members of the public.
6. Individuals licensed in another municipality performing massage services as part of a wellness event/expo where such event will not be more than three days in length. Written notice must be provided to the city and must include dates, times, and location(s) of such event.

Subd. 6. License application.

1. **Therapeutic massage enterprise license application.** An application for a therapeutic massage enterprise license shall be made on a form supplied by the city clerk and shall request the following information:
 - a. **All applicants.** For all applicants:

- i.** Whether the applicant is an individual, corporation, partnership, or other form of organization.
- ii.** The legal description of the premises to be licensed together with a plan of the area showing dimensions, location of buildings, street access, and parking facilities.
- iii.** The floor number, street number, suite number(s) and rooms where the massage services are to be conducted.
- iv.** Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid.
- v.** Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans for design are on file with the city's building and inspection department, no plans need be submitted to the issuing authority.
- vi.** The name, street address, and suite number(s) of the business if it is to be conducted under a designation, name, or style other than the name of the applicant, and a certified copy of the certificate as required by Minn. Stats. § 333.02.
- vii.** The amount of the investment that the applicant has in the business, buildings, premises, fixtures, furniture, and equipment, and proof of the source of such investment. The identity of all other persons investing in the business, building, premises, fixture, furniture and equipment, the amount of their investment and proof of the source of such investment.
- viii.** All applications for licenses, whether enterprise or individual applications, shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by such person; if by a corporation, by an officer thereof; if by an incorporated association, by the manager or officer thereof; if by a limited liability company (LLC), by a member thereof. Any falsification of information on the license application shall result in the denial of the license and the applicant may be subject to prosecution for forgery as defined by Minnesota State Statute.

- ix. Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, 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 issuing authority.
 - x. Such application must identify a responsible party relative to each license who shall be responsible for the conduct of the business. If the responsible party for a licensee will change, an application for the change shall be provided to the city clerk at least 30 days prior to such change and shall be treated the same as an application for a new license. In the event that a 30-day prior notice is not feasible, a written explanation will be submitted to the city clerk within one week of the known change documenting the reason(s) for the deviation; this is subject to approval by the police chief or his/her designee. Failure to file a timely application or explanation for a change in responsible party shall be grounds for revocation, suspension or non-renewal of any license.
 - xi. Whether the applicant has ever been engaged in the operation of massage services. If so, applicant shall furnish information as to the name, place, dates and length of time of the involvement of any and all such establishments.
 - xii. Federal and state income tax returns, business and personal, for the previous three years.
 - xiii. Such other information as the city council or issuing authority shall require.
 - xiv. Applicant is responsible for reading and understanding the city ordinance regarding therapeutic massage and for communicating and providing interpretation when necessary to all massage therapists licensed at the enterprise to ensure compliance.
- b. **Individuals.** For applicants who are individuals:
- i. The name, place and date of birth, and street residence address of the applicant.
 - ii. Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used.

- iii. Whether the applicant is a citizen of the United States or a resident alien or has the legal authority to work in the United States.
 - iv. Street addresses and dates at which the applicant has lived during the preceding ten years.
 - v. The type, name, location, and dates of every business or occupation the applicant has been engaged in during the preceding ten years.
 - vi. Whether the applicant is currently licensed in other communities to perform massage therapy, and if so, where.
 - vii. Names, addresses, contact information and dates of the applicant's employment for the preceding ten years.
 - viii. Whether the applicant has ever been arrested, charged or convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense. If so, the applicant shall furnish information as to the date, time, place and offense for which arrests, charges or convictions were had.
 - ix. Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last ten years of the date the license application is submitted to the issuing authority.
 - x. Whether the applicant has ever been engaged in the operation of massage services. If so, applicant shall furnish information as to the name, dates, place and length of time of the involvement in such an establishment.
 - xi. Such other information as the city council or issuing authority shall require.
- c. **Partnerships.** For the applicants that are partnerships: the names and addresses of all general and limited partners and all information concerning each general partner as is required in Subd. 1 (b) of this section of this Code. The managing partners shall be designated and the interest of each general and limited partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application, and if the partnership is required to file a certificate as to a trade name under Minn. Stats. § 333.02, a certified copy of such certificate shall be submitted. The license shall be issued in the name of the partnership.

- d. **Corporations and other organizations.** For applicants that are corporations or other types of organizations:
 - i. The name of the organization, and if incorporated, the state of incorporation.
 - ii. A true copy of the certificate of incorporation, and, if a foreign corporation, a certificate of authority as described in Minn. Stat. § 303.02.
 - iii. The name of the general manager, corporate officers, proprietor, and other person in charge of the premises to be licensed, and all the information about said persons as is required in Subd. 1 (b) of this section of this Code.
 - iv. A list of all persons who own or control an interest in the corporation or organization or who are officers of said corporation or organization, together with their addresses and all the information regarding such persons as is required in Subd. 1 (b) of this section of this Code.

2. **Massage therapist license application.** An application for a massage therapist license shall be made on a form supplied by the city clerk and shall request the following information:

- a. The applicant's name and current address.
- b. The applicant's current employer.
- c. The applicant's employers for the previous ten years, including the employer's name, address and dates of employment.
- d. The applicant's addresses and dates for the previous ten years.
- e. The applicant's date of birth, home telephone number, weight, height, color of eyes, and color of hair. A color photocopy of the applicant's MN driver's license or MN I.D. front and back, or any other government-issued I.D. If the photocopy is not acceptable to the police chief, the police department may take photographs for the file.
- f. Whether the applicant has ever been arrested, charged or convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense and, if so, the time, place, date(s) and offense for which arrests, charges or convictions were had.

- g. Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, 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 issuing authority.
- h. The names, resident and business addresses and contact information of those residents of the metropolitan area, of good moral character, not related to the applicant or financially interested in the premises of the business, who may be referred to as to the applicant's character.
- i. Whether the applicant is a U.S. citizen or resident alien or has the legal authority to work in the United States.
- j. Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used.
- k. Whether the applicant has met the definition of a massage therapist in Subd. 3 (7) of this Code.
- l. Whether the applicant has ever been the subject of an investigation, public or private, criminal or non-criminal, regarding massage therapy.
- m. Such other information as the city council or issuing authority shall require.

Subd. 7. License fees. The fees for a therapeutic massage enterprise and therapist licenses shall be as set forth by Chapter 2, Sec. 2.19 of this Code. An investigation fee shall be charged for therapeutic massage enterprise licenses and an individual therapeutic massage license. Each application for a license shall be accompanied by payment in full of the required license and investigation fees. No investigation fee shall be refunded.

Subd. 8. License application verification and consideration.

1. Therapeutic massage enterprise license.

- a. All applications shall be referred to the chief of police, or his or her designee, and such other city departments as the city administrator shall deem necessary for verification and investigation of the facts set forth in the application. The chief of police, or his or her 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 applicant. The individual or

individual associated with an entity listed above applying for a therapeutic massage enterprise license must submit to mandatory finger printing by the police department. The chief of police, or his or her designee, is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. The chief of police, or his or her designee, and other consultants shall make a written recommendation to the city council as to the issuance or non-issuance of the license. The city council or chief of police or his or her designee may order and conduct such additional investigation as it deems necessary, including but not limited to contacting other state agencies. Upon completion of its investigation, the council shall grant or deny the license unless the application is withdrawn prior to council action.

2. **Massage therapist license.**

- a. **Verification and consideration.** Within a reasonable period after receipt of a complete application and applicable fees for a massage therapist license, the issuing authority shall make recommendation to grant or deny the application. The issuing authority is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry, background check, and/or a driver's license history inquiry on the applicant. All individual applicants applying for a massage therapist license must submit to mandatory finger printing by the police department. The massage therapist applicant must also provide three letters of reference from former employers or in conjunction with instructors who provided vocational instruction associated with the 500 hours of massage therapy study. The city council or chief of police or his or her designee may order and conduct such additional investigation as it deems necessary, including but not limited to contacting other state agencies. Notice shall be sent by the city clerk 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 scheduled before a hearing officer, on behalf of the city council, for consideration and conclusion.
- b. **Photo I.D. cards.** The message therapist applicant must provide a current two by two inch color photo of the applicant that clearly shows the full applicant's uncovered face in view. This photo shall be affixed to the license at all times if approved by the City Council and will have it readily available whenever the applicant is on the property of the massage enterprise applicant's property.

Subd. 9. Person's ineligible for license.

1. **Therapeutic massage enterprise license.** No therapeutic massage enterprise license shall be issued to an individual or entity which:
 - a. Is not 18 years of age or older at the time the application is submitted to the issuing authority;
 - b. Has been convicted of any crime directly related to the occupation licensed as prescribed by Minn. Stats. § 364.03, subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by Minn. Stats. § 364.03, subd. 3;
 - c. Has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license in any jurisdiction that was denied, revoked or suspended within the last ten years of the date the license application is submitted to the issuing authority;
 - d. Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;
 - e. Is not of good moral character or repute;
 - f. Is not the real party in interest of the enterprise;
 - g. Has knowingly misrepresented or falsified information on a license application at any time in the preceding ten years;
 - h. Cannot meet the definition of therapeutic massage enterprise in subd. 3 (10) of this Code;
 - i. Owes taxes or assessments to the state, county, school district, or city that are due and delinquent;
 - j. Is the spouse of a person whose massage-related license has been denied, suspended or revoked in the past ten years;
 - k. Allowed a license to expire or surrendered a license, unless, at the sole discretion of the city, a license application is submitted for consideration. The application shall be treated the same as an application for a new license, subject to all ordinance regulations and review; or

1. The city's massage therapist ordinance does not provide for a "mobile" or transient performance of massage therapy services that is not located at the particular addressed property that has obtained a message therapy enterprise license.
2. **Massage therapist license.** No massage therapist license shall be issued to a person who:
 - a. Is not 18 years of age or older at the time the application is submitted to the issuing authority;
 - b. Has been convicted of any crime directly related to the occupation licensed as prescribed by Minn. Stats. § 364.03, subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by Minn. Stats. § 364.03, subd. 3;
 - c. Whether the applicant has had an interest in, individually or as part of a corporation, partnership, association, enterprise, 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 issuing authority;
 - d. Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;
 - e. Is not of good moral character or repute;
 - f. Has knowingly misrepresented or falsified information on a license application at any time in the preceding ten years;
 - g. Is not affiliated with, employed by, or does not own a therapeutic massage enterprise licensed by the city;
 - h. Cannot meet the definition of massage therapist in subd. 3 (7) of this Code; or
 - i. Allowed a license to expire or surrendered a license, unless, at the sole discretion of the city, a license application is submitted for consideration. The application shall be treated the same as an application for a new license, subject to all ordinance regulations and review.

Subd. 10. Locations ineligible for therapeutic massage enterprise license.

1. **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 Minn. Stats. § 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.
2. **Improper zoning.** No therapeutic massage enterprise shall be licensed if the location of such enterprise is not in conformance with the city's zoning code.
3. **Building, fire, and code compliance violations.** No therapeutic massage enterprise shall be licensed if the location of such enterprise is not in compliance with state building and fire codes in addition to this Code.
4. **Distinct entrance.** No therapeutic massage enterprise, unless a home-based enterprise, shall be licensed if the location of such enterprise does not have a distinct, front-facing, public entrance. A distinct, front-facing public entrance for an entire building is required for enterprise locations with multiple suites.
5. **Previous license infractions.** No therapeutic massage enterprise license shall be issued or renewed if the massage therapy enterprise has employed two or more massage therapists whose licenses have been suspended and/or revoked within any 12-month period during period of employment.
6. Notice of revocation proceedings to property owner and limitation on issuance of license for property where there has been a previous infraction(s).
 - a. The property owner of a premises that is subject to a massage license revocation will receive notice of an intent to revoke said license prior to the actual revocation of the license as well as the notice of revocation. Failure to provide said notice to the property owner will not invalidate any massage license revocation.
 - b. No therapeutic massage enterprise shall be licensed if such enterprise is located on property on which prior massage therapists have had their licenses revoked pursuant to this ordinance or predecessor ordinances on the same subject except as follows:
 - i. A period of at least 24 months has passed since the revocation of a prior license where said prior revocation was the only revocation at that location in the preceding 60 months.

- ii. A period of at least 60 months has passed since the revocation of a prior license where said prior revocation was the second revocation at that location in the preceding 60 months.
- iii. A period of at least 84 months has passed since the revocation of a prior license where said prior revocation was the third or greater number of revocations at that location in the preceding 120 months.

For purposes of this section (6)(b), the period of revocation will begin to run from the date of action by the city, whether by the city council, hearing officer or other authorized city representative revoking said license.

Subd. 11. License restrictions.

1. **Posting of license.** A therapeutic massage enterprise license issued must be posted in a conspicuous place on the premises for which it is used. A person licensed as a massage therapist shall also post their massage therapist license, with color photo, in a conspicuous place on the premises at which the therapist is associated. A person licensed as a massage therapist shall have it readily available at all times where therapeutic massage services are rendered, and the photo identification as noted in subd. 8 (2) (b).
2. **Licensed premises.** A therapeutic massage enterprise license is only effective for the compact and contiguous space specified in the approved license application. If the licensed premises is enlarged, altered, or extended, the licensee shall inform the city clerk within ten business days. A massage therapist license shall entitle the licensed therapist to perform on-site massage at the therapeutic massage enterprise they are licensed for, the place of residence of the licensed massage therapist or client, or at an office, business, park or institution excluding hotel and motel guest rooms. It shall be the continuing duty of each licensee to properly notify the city clerk, within ten business days, of any change in the information or facts required to be furnished on the application for license and failure to comply with this section shall constitute cause for revocation or suspension of such license. All therapeutic massage must be performed within a building with a valid certificate of occupancy and not in or upon any vacant lot, lot, motor vehicle, trailer, tent or railroad car, including but not limited to structures not meant for human habitation.
3. **Transfer of license prohibited.** The license issued is for the person or the premises 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.

4. **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 in subd. 5 of this Code.
5. **Employment of unlicensed massage therapists prohibited.** No therapeutic massage enterprise shall employ or use any person to perform massage who is not licensed as a therapeutic massage therapist under this section, unless the person is specifically exempted from obtaining a therapist license in subd. 5 of this Code.
6. **Coverage of genitals/breasts during massage.** The licensee shall require that the person who is receiving the massage shall completely cover at all times genitals and breasts with non-transparent material or clothing.
7. **Therapist dress/uniform requirements.** Any therapist performing massage shall at all times be dressed professionally, including short sleeved crew neck shirts, skirts and shorts no shorter than three inches above the knees, nails clean, trimmed and neat, hair pulled back and closed-toed shoes.
8. **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.
9. **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, vaginal area or breasts of a person, except that massage of pectoral muscles may be performed if requested by customer or patron.
10. **Restrictions regarding hours of operation.** No therapeutic massage enterprise shall be open for business, nor will any therapeutic massage therapist offer massage services, before 9:00 a.m. or after 9:00 p.m. any day of the week. No customers or patrons shall be allowed to remain upon the licensed premises after 9:00 p.m. and before 9:00 a.m. daily. Support activities such as cleaning, maintenance and bookkeeping are allowed outside of business hours.
11. **Proof of local residency required.**
 - a. In the case of a therapeutic massage enterprise, the licensee, managing partner, or manager of the licensed premise must show proof of residency within 150 miles of the city.
 - b. In the case of therapeutic massage therapists, the licensee must show proof of residing within 150 miles of the city.

- 12. Inspections.** In light of the high risk of involvement with illegal conduct an establishment providing massage therapy poses to the general public, the issuing authority, environmental health department or designee, and/or the city police department shall have the right to enter, inspect, and search the licensed premises during the hours in which the licensed premises is open for business to ensure compliance with all provisions of this section. Any search of the licensed premises are subject to reasonableness standards as recognized by the courts; search warrants will be secured when applicable. 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 during the hours in which the licensed premises is open for business. The licensee is subject to a \$250.00 fee for a third inspection, if orders to correct are issued to the licensee and those orders are not corrected upon re-inspection. Licenses shall be granted only to establishments which can meet the safety and sanitary requirements of the city and of the building code regulations of the city and state.
- 13. Posting of rates.** All massage enterprise businesses must post their rates for service in a prominent place in the entrance or lobby of the business.
- 14. Illegal activities.** In addition to the license restrictions set forth in this section, any advertising by a licensee or representative of licensee of any potential unlawful, misleading, sexually explicit, obscene or erotic conduct at the licensed establishment shall be prohibited. A licensee under this chapter shall be strictly responsible for the conduct of the business being operated in compliance with all applicable laws and ordinances, including the actions of any employee or agent of the licensee on the licensed premises. No audio or visual recording is allowed at anytime.
- 15. Restrictions involving minors.** No person under the age of 18 shall be permitted at any time to be in or on the licensed premises as a customer, guest, or employee, unless accompanied by his/her parent or guardian.
- 16. Food preparation.** Food preparation on site shall only occur in locations specifically designed for that purpose and with proper building permits having been obtained. Food preparation is limited to use for employees during breaks during the regular shift.
- 17. Habitation.** Massage enterprises 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. Home-based enterprises 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 in any area where massage is performed.

18. Intoxicating alcoholic beverages. Per Minn. Stats. § 340A.401, no person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, charge for possession or otherwise dispose of intoxicating alcoholic beverages onsite. Intoxicating alcoholic beverages does not include alcohol used in direct conjunction with massage therapy such as in cleaning.

19. Sign permit required. In the event of transfer or new ownership of any existing massage enterprise.

Subd. 12. Restrictions regarding sanitation, health and safety.

1. **Toilet room requirements.** A licensed therapeutic massage enterprise shall be equipped with adequate and conveniently located toilet rooms for the accommodation of its employees and patrons. The toilet room shall be well ventilated by natural or mechanical methods and be enclosed with a door. The toilet room shall be kept clean and in good repair and shall be adequately lighted.
2. **Paper/linen requirements.** A licensed therapeutic massage enterprise shall provide single-service disposal paper or clean linens to cover the massage therapy table or, chair, on which the patron receives the massage; or in the alternative, if the massage therapy table or, chair, on which the patron receives the massage is made of material impervious to moisture, such massage therapy table or chair shall be properly sanitized after each massage.
3. **Washing of hands required.** The massage therapist shall wash his or her hands and arms with water and soap, anti-bacterial scrubs, alcohol, or other disinfectants prior to and following each massage service performed.
4. **Door latches and locks.** Doors on massage therapy rooms shall not be locked or capable of being locked. Locks, latches or other devices intended to secure a door so as to prevent it from being opened by any person from either side of the door with or without a key cannot be present on any doors of rooms intended for massage therapy.
5. **Equipment.** All modalities shall be performed on a raised massage therapy table or chair; no bed, mattress or other similar type equipment shall be allowed onsite except for a mat similar to those used in yoga. No modality may be performed that requires a massage therapist to stand on the massage therapy table or chair unless necessary due to size ratio of massage therapist/client.
6. **Prohibited modalities.** Modalities involving work performed 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 completely clothed and massage therapist is certified in Shiatsu or other modality by an accredited institution or program.

Subd. 13. Term, renewal of license.

1. The term of a massage therapist license and a therapeutic massage enterprise license is one year. If an individual or enterprise submits a new application any time during a calendar year, the term shall expire December 31 of the year of issuance. The new application license fee for a partial calendar year may be prorated to one-half of the annual fee if an application is filed with the issuing authority after June 30.
2. Licenses must be renewed annually. A massage therapist license issued under this section shall expire on December 31 of the year of issuance of the license. A therapeutic massage enterprise license issued under this section shall expire on December 31 of the year of issuance. An application for the renewal of an existing license shall be made at least 75 days prior to the expiration date of the license and shall be made in such form as the issuing authority requires.
3. An application for a renewal of an enterprise or individual license shall be made on the renewal application form provided by the City. The license and investigation fees for a renewal shall be the same as those contained in Chapter 2, Section 2.19 of this City Code. If the license holder is a corporation, licenses must also be renewed within 30 days whenever more than ten percent of the corporation's stock is transferred. If the license holder is a partnership, the license must also be renewed within 30 days whenever a new partner is added to the partnership. If the license holder is an LLC, the license must be renewed within 30 days whenever a change in membership or chief manager occurs.
4. After the completion of the renewal license verification process, the issuing authority shall present the enterprise license application to the city council in accordance with this section. If the 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. 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 denial. If an appeal is timely received by the city clerk, the hearing before a hearing officer, on behalf of the city council, shall take place within a reasonable period of receipt of the appeal by the issuing authority.
5. After the completion of the renewal license verification process, the issuing authority shall issue the massage therapist license in accordance with this section. If the 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. 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 denial. If an appeal is timely received by the city clerk, the hearing before a hearing officer, on behalf of the city council, shall take place within a reasonable period of receipt of the appeal by the issuing authority.

Subd. 14. Sanctions for license violations.

1. **Suspension or revocation.** A hearing officer, on behalf of the city council may impose an administrative penalty, suspend or revoke a license issued pursuant to this section, at its discretion, for:
 - a. A violation related to fraud, misrepresentation, or false statement contained in a license application or a renewal application.
 - b. A violation related to fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.
 - c. Any violation of this section or state law.
 - d. A violation by any licensee or individual that is directly related to the occupation or business licensed as defined by Minn. Stat. § 364.03, subd. 2.
 - e. Conducting the licensed business or occupation 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.
 - f. 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.
 - g. If the holder of an enterprise license fails to maintain with the issuing authority a current list of all employees of such licensed premises. The list shall include all massage therapists licensed under this section.
 - h. A material variance in the actual plan and design of the premises from the plans submitted.
 - i. Neither the charging of a criminal violation nor a criminal conviction is required in order for the hearing officer on behalf of the council or issuing authority to impose an administrative penalty or suspend, deny or revoke a license.
 - j. In the event of multiple massage enterprise locations, any license suspension/revocation shall apply to any and all massage enterprise locations within the City of Becker.
2. **Notice and hearing.** A revocation or suspension by the hearing officer, on behalf of the city council, shall be preceded by written notice to the licensee. 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 license application.

3. **Ability to reapply after revocation.** The holder of a massage enterprise license or massage therapist license may not reapply for a new license for a period of five years if their license is revoked under this section.
4. **Ability to reapply after denial.** The applicant for a massage enterprise license or massage therapist license may not reapply for a license for a period of five years if the applicant's license has previously been denied due to fraud, misrepresentation, or false statement contained in a previous license or renewal application.
5. **Previous license infractions.** In the event there is a license infraction or a pending citation involving a licensed establishment and/or a licensed massage therapist, the city may, at its option, choose to not to take action on any license or renewal application until such infraction or pending citation has been resolved. The applicant for a massage enterprise license or massage therapist license may not be eligible to reapply for a license for a period of five years if the licensee is convicted of any violation of the ordinance.

Subd. 15. Suspension of license for violations. The chief of police or his or her designee may immediately suspend a license, pending a hearing, if the licensee, or any person working on behalf of the licensee, is determined to be conducting business in an unlawful manner, any manner that constitutes a breach of the peace or a menace to the health, safety, or general welfare of the public, or after repeated complaints received regarding conduct of business practices or method of solicitation.

Subd. 16. Violations and penalties. Any person or entity violating the provisions of this section is guilty of a misdemeanor under Minnesota law and shall be punished by a fine or by imprisonment, or both, together with the costs of prosecution. Each violation of this section shall constitute a separate offense. The facts leading to arrests, charges, or conviction of a violation of this section, while not required, may be considered in identifying grounds for the nonrenewal, suspension, denial or revocation of any license issued under this section.

Subd. 17. Severability. If any section, subsection, sentence, clause, or phrase of this section is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this section. The city council hereby declares that it would have adopted the section in each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.