

**HOPKINS CITY COUNCIL
WORK SESSION
AGENDA**

Tuesday, April 13, 2021

6:30 pm

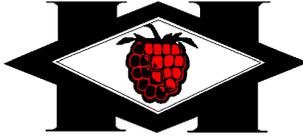
Hopkins City Hall – Council Chambers

6:30 p.m. Review of Code Requirements for Massage Therapy Establishments;
Domeier/Lindahl

7:00 p.m. 2022 Projects and Reconstruction Program Update; Stanley

Other

Adjournment



CITY OF HOPKINS

Memorandum

To: Honorable Mayor and Council Members
Mike Mornson, City Manager

From: Amy Domeier, City Clerk
Jason Lindahl, City Planner

Date: April 13, 2021

Subject: Review of Code Requirements for Massage Therapy Establishments

PURPOSE

At least once a year, staff receives a request to change the ordinance and reduce the limitations on massage related businesses. City Council directed staff to draft an ordinance that would allow for massage therapy establishments again within the business districts of Hopkins.

INFORMATION

In 2013 the City Council directed staff to work with the City Attorney to draft an ordinance that would limited massage therapy to an accessory use in the Business Districts and prohibit it as a home occupation in Residential Districts. The ordinance approved attempted to implement this strategy through changes to the definitions for “Massage Therapy or Therapeutic Massage,” “Massage Therapist,” and “Massage Therapy Establishment” rather than specifically listing these as accessory uses in the Business Districts. The ordinance regulated that a massage therapist would only be able to obtain a license as an accessory use became effective in August, 2013. The regulation requires that a massage therapist would need to be located in an existing business where massage therapy isn’t the primary use. The City Council decided to place this limitation on massage businesses because of recent illegal activity at independent massage businesses.

The proposed ordinance includes the following changes:

- The draft ordinance would establish Massage Therapy Establishments as a permitted use in the B-3, General Business District provided such property is not located along Mainstreet. This would allow Massage Therapy Establishments as a permit use in the other portions of the B-3 district listed below (see attached zoning map). Massage Therapy Establishments would not be allowed in any residential, institutional, or industrial district or in the B-1, Limited Business, B-2, Central Business or B-4, Neighborhood Business Districts.
 - Along Shady Oak Road between Mainstreet and Excelsior Boulevard
 - Highway 7 and 17th Avenue North
 - Highway 7 and Blake Road North
 - Excelsior Boulevard and 11th Avenue South
 - 7th Street South and 11th Avenue South

- Updated definitions of “Massage Therapy Establishment”.
 - The updated definition states that an establishment exists when one or more massage therapists provide services to the public.
- Language allowing nonconforming businesses to relocate.
- A maximum number of massage establishment licenses to issue each year
 - Staff is proposing four massage establishment licenses be issued each year.
 - Two current massage therapists would count towards the total number allowed.
- License fees that match the amount of staff time to administer the license and conduct background checks.
 - The current cost for staff to conduct a background check for a massage therapist license ranges from \$163 to \$175.
 - Staff reached out to neighboring cities to gather fee information.
- An exterior sign regulation that requires the establishment to include more than just the word “massage”.

The Police Department and Fire Department have reviewed the draft ordinance and provided comments that were included in the ordinance.

FUTURE ACTION

Should the City Council chose to move forward with the proposed amendments or additional amendments, staff will schedule the ordinance for first and second readings. A public hearing will be required at the Planning Commission level first to consider the zoning changes proposed.

CITY OF HOPKINS
COUNTY OF HENNEPIN

ORDINANCE NO. 2021-XXXX

ORDINANCE AMENDING CHAPTERS 10 AND 102 AND APPENDIX A
OF THE HOPKINS CITY CODE REGARDING MASSAGE THERAPY

THE CITY COUNCIL OF THE CITY OF HOPKINS HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Hopkins City Code, Part II, Chapter 10, Article XVII, Section 10-606 is hereby amended by adding the double-underlined language and deleting the ~~stricken~~ language as follows:

Massage therapy establishment means any establishment wherein ~~two~~ one or more massage therapists provide massage therapy or therapeutic massage to the public; as the primary business. ~~other than a~~ hospital, sanatorium, rest home, nursing home, boarding home, medical doctor's office, chiropractor's office, or other institution licensed under the provisions of M.S.A. §§ 144.50 through 144.69 shall not be considered a massage therapy establishment.

SECTION 2. Hopkins City Code, Part II, Chapter 10, Article XVII, Section 10-607 is hereby amended by adding the double-underlined language and deleting the ~~stricken~~ language as follows:

Sec. 10-607. - License required; limitation on number of massage therapy establishment licenses.

- (a) It shall be unlawful for any person to practice as a massage therapist or operate a massage therapy establishment in the city without first obtaining a license to do so. However, no license is required for any massage therapist working for or as an employee of a medical professional licensed under M.S.A. chs. 147 or 148. In addition, no license is required under this article for a person licensed by the state board of medical practices when said person provides proof of licensure to the city clerk.
- (b) The license will be effective for one year and run from July 1 through June 30 of the license year.
- (c) No more than four massage therapy establishment licenses may be issued in the city.

SECTION 3. Hopkins City Code, Part II, Chapter 10, Article XVII, Section 10-611 is hereby amended to add the double-underlined language and delete the ~~stricken~~ language as follows:

Sec. 10-611. – Renewal; transfers.

Applications for renewal shall be submitted at least 60 days prior to the end of the license year on forms provided by the City Clerk. All licenses issued under this section shall be valid only for the person to whom the license was issued and no transfer of any license to another person shall be valid. A duly issued massage therapy establishment license may be transferred to another location

in the city so long as massage therapy establishments are an allowed use in the proposed location under the city's zoning regulations.

SECTION 4. Hopkins City Code, Part II, Chapter 10, Article XVII, Section 10-618 is hereby amended by adding the double-underlined language and deleting the ~~stricken~~ language as follows:

Sec. 10-618. - Inspection by city officials; minimum requirements.

- (a) During any hours in which a licensee is performing massage therapy treatments, the area where the service is being performed shall be open to inspection by city inspectors and police officers.
- (b) Each licensed massage ~~therapist~~ therapy establishment shall be responsible for adhering to the following minimum requirements for the health and safety of all patrons:
 - (1) The massage tables shall have a washable surface.
 - (2) The massage tables shall be covered with a disposable paper cover or with a sheet that is washable.
 - (3) A clean paper cover or washable sheet must be used for each patron and the massage therapists must have enough clean covers on hand to accommodate the number of patrons scheduled on one day.
 - (4) Used washable covers shall be placed in covered containers until they are washed.
 - (5) Used paper covers shall be placed in covered waste containers.
 - (6) Lotions used in the treatments shall be stored in covered containers.
 - (7) The massage therapists shall wash ~~his~~ their hands with soap and warm water immediately before beginning a treatment on each patron and use paper towels for hand wiping. Paper towels must be stored in a covered container.
 - (8) Bathroom facilities shall be made available to patrons. Paper towels, which shall be stored in covered containers, shall be provided for hand drying.
 - (9) Bathrooms shall be kept in clean repair.
 - (10) The floor shall be kept free of dust and debris.
 - (11) No food or drink shall be allowed in the treatment areas.
 - (12) Implements used directly on the skin shall be cleaned and sanitized after use on each patron. Such implements shall be stored in closed containers with a dry sanitizer.
 - (13) In addition to any requirements contained in the city's sign regulations, any exterior sign advertising the presence of an on-site massage therapy establishment shall include more than just the word "massage."
- (c) Massage therapists that are licensed by the city shall follow and adhere to the health and safety requirements in subsection (b) above and the code of ethics for massage therapists as published by the National Certification Board for Therapeutic Massage and Bodywork. This shall in no way require membership with American Massage Therapy Association.

- (d) The holder of a massage therapy establishment license is responsible for supervising the conduct of all massage therapists providing therapeutic massage at that establishment and ensuring they conform to the requirements of this section.

SECTION 5. Hopkins City Code, Part II, Chapter 10, Article XVII, Section 10-619 is hereby deleted in its entirety and replaced with the following double-underlined language:

Sec. 10-619. – Massage Therapy Establishments.

An application for a massage therapy establishment license shall be denied if the proposed location does not comply with the city’s zoning regulations.

SECTION 6. Hopkins City Code, Part III, Chapter 102, Article I, Section 102-4 is hereby amended by adding the double-underlined language and deleting the ~~stricken~~ language as follows:

Massage therapy establishment means any establishment wherein ~~two~~ one or more massage therapists provide massage therapy or therapeutic massage to the public, as the primary business. ~~other than a~~ hospital, sanatorium, rest home, nursing home, boarding home, medical doctor’s office, chiropractor’s office, or other institution licensed under the provisions of M.S.A. §§ 144.50—144.69 shall not be considered a massage therapy establishment.

SECTION 7. Hopkins City Code, Part III, Chapter 102, Article VII, Section 102-214 is hereby amended by adding the double-underlined language and deleting the ~~stricken~~ language as follows:

Sec. 102-214. - Business districts.

- (a) *Description.* The business (B) districts are in four categories designated as B-1, B-2, B-3, and B-4.
- (b) *Permitted uses.* The permitted uses of any land or structure in a B District are those uses indicated by the mark "X" and shall be further subject to those certain special limitations, requirements and regulations pertaining to those B District uses specially designated by the following marks: (1), (2), (3), (4) ~~and~~ (5), and (6).
- (1) means that the use is prohibited on the ground floor;
 - (2) means that a conditional use permit is required;
 - (3) means not more than three devices allowed;
 - (4) means that the use is limited to 5,000 square feet per business;
 - (5) means that the use is not allowed within 500 feet of a public park, public or private school, church, day care, nor the Hopkins Center for the Arts; and
 - (6) means that the use is prohibited along Mainstreet.
- (c) *Code key.* Capital letters following any X mark indicate that the use or uses permitted are subject to and are set forth in the provisions of section 102-216, which corresponds to the capital letter or letters set forth in this subsection. The permitted use upon any land or in any structure in a B District is considered the principal use.

SECTION 8. The chart contained in Hopkins City Code, Part III, Chapter 102, Article VII, Section 102-214 is hereby amended by adding the double-underlined language as follows:

<i>Permitted Uses</i>	<i>B-1</i>	<i>B-2</i>	<i>B-3</i>	<i>B-4</i>
<u>Massage Therapy Establishment</u>			<u>(6) X</u>	

SECTION 9. Hopkins City Code, Appendix A, which contains the City’s fee schedule, is hereby amended by adding the double-underlined language and deleting the ~~stricken~~ language as follows:

LICENCE FEES

Massage		
Massage therapist	<u>\$100.00</u> \$ _____	Per year
Massage therapist investigation	<u>\$50.00</u> \$ _____	New licenses
Massage establishment license	<u>\$25.00</u> \$ _____	Per year
Massage establishment investigation	<u>\$50.00</u> \$ _____	New licenses

SECTION 10. The effective date of this ordinance shall be the date of publication.

First Reading: _____, 2021
 Second Reading: _____, 2021
 Date of Publication: _____, 2021
 Date Ordinance Takes Effect: _____, 2021

By: _____
Jason Gadd, Mayor

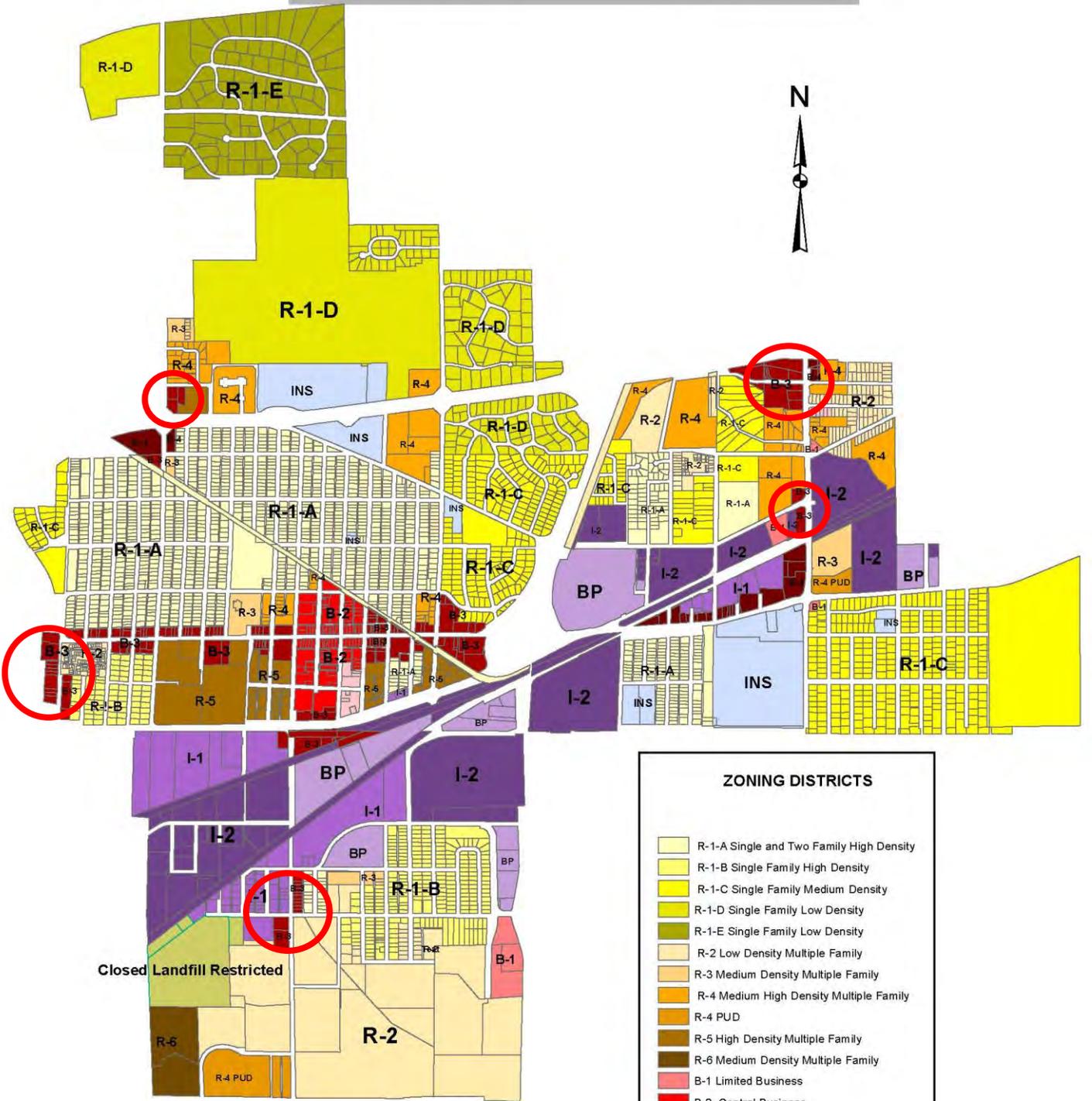
ATTEST:

Amy Domeier, City Clerk

MESSAGE THERAPIST/ESTABLISHMENT FEE STUDY (MARCH 2021)

Hopkins	License type	Fee	Notes
	Massage Therapist	\$100	Per year
	Investigation Fee	\$50	Initial application only
	Massage Establishment	\$25	Per year
	Investigation Fee	\$50	Initial application only
Plymouth	License type	Fee	Notes
	Massage Therapist	\$75	Per year
	Investigation Fee	\$150	Initial application only
	Massage Establishment	\$300	Per year
	Investigation Fee	\$300	Initial application only
St. Louis Park	License type	Fee	Notes
	Massage Therapist	\$125/\$35	If therapist is holder of establishment license/per year
	Investigation Fee	N/A	Included as part of license fee
	Massage Establishment	\$385	Per year
	Investigation Fee	N/A	Included as part of license fee
Golden Valley	License type	Fee	Notes
	Massage Therapist	\$100	Per year
	Investigation Fee	\$100	Initial application only
	Massage Establishment	\$500	Per year
	Investigation Fee	\$200	Initial application only
Minnetonka	License type	Fee	Notes
	Massage Therapist	N/A	Do not license therapists
	Investigation Fee	N/A	
	Massage Establishment	\$350	Per year
	Investigation Fee	\$300	
Edina	License type	Fee	Notes
	Massage Therapist	N/A	Do not license therapists
	Investigation Fee	N/A	
	Massage Establishment	\$300	Per year
	Investigation Fee	\$750	One-time, non-refundable
Maple Grove	License type	Fee	Notes
	Business	\$500	Per year
	Owner/Operator	\$250	Per year. (No additional employees)
	Investigation Fee	\$75	Flat rate for personal service and business owners
	Personal Service	\$75	Per year. Fees may be prorated.
	Investigation Fee	\$150	
Brooklyn Park	License type	Fee	Notes
	Massage Therapist	\$100	Per year
	Investigation Fee	\$200	
	Massage Establishment	\$200	Per year
	Investigation Fee	\$200	
Eden Prairie	License type	Fee	Notes
	Massage Therapist	\$50	Per year
	Investigation Fee	\$100	
	Massage Establishment	\$300	Per year. Fees may be prorated.
	Investigation Fee	\$500	

City of Hopkins Zoning Map



ZONING DISTRICTS	
	R-1-A Single and Two Family High Density
	R-1-B Single Family High Density
	R-1-C Single Family Medium Density
	R-1-D Single Family Low Density
	R-1-E Single Family Low Density
	R-2 Low Density Multiple Family
	R-3 Medium Density Multiple Family
	R-4 Medium High Density Multiple Family
	R-4 PUD
	R-5 High Density Multiple Family
	R-6 Medium Density Multiple Family
	B-1 Limited Business
	B-2 Central Business
	B-3 General Business
	B-4 Neighborhood Business
	Business Park
	Institutional
	I-1 Industrial
	I-2 General Industrial
	Mixed Use
	Closed Landfill Restricted (CLR)

Closed Landfill Restricted



Engineering Dept.

CITY OF HOPKINS

Memorandum

To: Honorable Mayor and Council Members
Mike Mornson, City Manager

From: Nate Stanley, City Engineer

Date: April 13, 2021

Subject: 2022 Projects and Reconstruction Program Update

PURPOSE

To provide an update on city projects currently scheduled for 2022 construction in the CIP, and review the streets left to reconstruct under the pavement management program.

INFORMATION

Currently, 6th and 7th Avenues South between Mainstreet and 2nd Street South are proposed to be reconstructed in 2022. As with other reconstruction projects, the scope would also include replacement of sidewalk, water main, sanitary sewer and storm sewer. This project is smaller in scale than recent street projects of the last 5 years, and staff anticipates it will be much less in cost. Since there are assessments proposed for the work, staff needs to follow the MN Statute 429 process, which involves council action to order a feasibility study, typically this is done a year in advance of the proposed construction.

A feasibility study is underway to evaluate the rehabilitation of trunk water main north of TH 7. In 2016, staff had an evaluation completed of various critical segments of water main around town and the subsequent report indicated that this stretch of water main was in need of rehabilitation. This main is a critical line as it supplies water direct from the treatment plant to the distribution network. The feasibility study will focus on trenchless rehabilitation methods as a cost saving measure, rather than traditional pipe replacement where costly street impacts are incurred.

A review of the status of street reconstruction across the city and moving towards pavement preservation rather than reconstruction projects will be presented.

FUTURE ACTION

Regarding the proposed 2022 street and utility project, based on council direction at this work session, staff will be prepared to start project development. The next step is returning to council this spring with a resolution to order a feasibility report.

Regarding the trunk water main rehabilitation, staff will present the results of the study later this year once it's completed, and make a recommendation regarding moving forward.