

CHAPTER 113: MASSAGE ESTABLISHMENTS/MASSAGE THERAPY

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§ 113.01 SHORT TITLE.

The ordinance codified in this chapter shall be known and amended as the “St. Joseph County Massage Establishments/Massage Therapy Ordinance.”

§ 113.02 PURPOSE.

The purpose of this chapter is to protect public health and safety by establishing procedures that will assure St. Joseph County residents that all Massage Establishments will be operated and maintained in a clean and sanitary manner and that all persons performing massage therapy will have met the training requirements to competently practice or administer massage therapy.

§ 113.03 INCORPORATION AND ADOPTION.

The rules and regulations of the Indiana Department of Fire and Building Services 675 I.A.C 20-3 and Indiana Occupational Safety and Health Administration (IOSHA) 29 C.F.R. 1910.1030 are hereby incorporated into this chapter. A copy of these rules and regulations are on file in the office of the St. Joseph County Department of Health.

§ 113.04 DEFINITIONS.

For this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. Any person applying for a license under this chapter, whether for a new or a renewal license.

BOARD OF HEALTH. The St. Joseph County Board of Health.

DISINFECTION. A process that destroys all microorganisms, with the exception of high numbers of bacterial spores, through the use of high temperature or an Environmental Protection Agency registered tuberculocidal disinfectant.

DEPARTMENT OF HEALTH. The St. Joseph County Department of Health.

EMPLOYEE. Any person who performs any service at a Massage Establishment including, but not limited to, any Massage Establishment owner, massage therapist, partner, operator, manager, supervisor, receptionist, or worker, whether paid or not, including those who have no physical contact with customers or clients.

HEALTH OFFICER. The St. Joseph County Health Officer or their duly authorized representative.

INDIANA STATE BOARD OF MASSAGE THERAPY. The board established by Indiana Code IC 25-21.8-2 to provide for the certification of persons as Certified Massage Therapists.

INDIANA STATE MASSAGE THERAPIST CERTIFICATE. A certificate issued by the Indiana State Board of Massage Therapy for persons who are Certified Massage Therapist.

ISDH. Indiana State Department of Health.

INSPECTION. An onsite review of the Massage Establishment, any other portion of the Massage Establishment, and associated records as deemed necessary by the Department of Health.

MASSAGE ESTABLISHMENT. Any business located in a building, room, or place utilized for the practice of massage therapy, other than:

- (1) A recognized school of massage therapy; or
- (2) An Indiana State Department of Health (ISDH) licensed medical facility.

MASSAGE THERAPY. The manipulation of superficial and deeper layers of the muscle and connective tissue using various techniques to enhance function, aid in the healing process, or promote relaxation and well-being by using the hands, fingers, elbows, knees, feet, and legs. Massage therapy involves working and acting upon the body with pressure through structured and unstructured, stationary, or moving tension, motion, or vibration, performed manually or with mechanical aids. Target tissues may include muscles, tendons, ligaments, fascia, skin, joints, or other connective tissue, as well as lymphatic vessels, organs, or the gastrointestinal system. Target tissues specifically exclude the genitals or female breasts.

PERSON. Any individual, partnership, firm, company, corporation, association or his or her legal representative or agent.

RECOGNIZED SCHOOL. Any school or institution of learning that is a member in good standing of at least one of the following organizations:

- (1) The American Massage Therapy Association;
- (2) The American Medical Massage Therapy Association;
- (3) The National Certification Board for Therapeutic Massage and Bodywork;
- (4) A state agency, board, or other organization established by a state law which has as its purpose the regulation or monitoring of the massage industry and/or therapists in the state;
- (5) A school that is part of or operated by a state licensed college, community college, or university; or
- (6) A school, as determined by the Department of Health, which has for its purpose the teaching of the theory, ethics, practice methods, and profession or work of massage therapy and which requires that a student successfully complete a course of study of not less than 625 credit hours of classroom instruction in massage therapy and related training.

STERILIZE. The use of a physical or chemical procedure to destroy all microbial life, including highly resistant bacterial endospores.

§ 113.05 LICENSE REQUIREMENTS.

- (A) All persons intending to operate a Massage Establishment or practice massage therapy shall obtain the appropriate license from the Department of Health, subject to the exceptions listed in Section 113.05 (B).
- (B) A person may operate a Massage Establishment or practice massage therapy without obtaining a license if the person is:
 - (1) A State of Indiana licensed professional nurse, registered nurse, physician, chiropractor, osteopath, physical therapist, or physical therapist assistant with their license displayed in a prominent location;
 - (2) A student enrolled in a recognized school and performing massage therapy only as part of their training requirement;
 - (3) An athletic trainer who has received training in massage therapy and who is providing massage therapy in a training facility that has sufficient space and training equipment to serve 10 customers at once;
 - (4) A Barber, cosmetologist, or pedicurist performing massages only to the face, head, neck, shoulders, or feet, when said massage is only offered in adjunct to, and not as the primary business practice; or
 - (5) A State of Indiana licensed esthetician who is only performing manipulation of the skin at a State of Indiana licensed salon with the license displayed in a prominent location. An esthetician may not perform massage therapy of the muscle and connective tissue without obtaining a massage therapy license.

- (C) Irrespective of all other conditions, requirements, and exceptions listed in this chapter, a Massage Establishment license or massage therapy license shall not be issued to any person who has been found in violation of any statute or ordinance pertaining to sex offenses, prostitution, keeping a house of ill fame, or maintaining a public nuisance.
- (D) It shall be unlawful for any person to knowingly make any false, fraudulent, or untruthful statement, either written or oral, or in any way knowingly omit any material fact, or give or use any fictitious name in order to secure or aid in securing a license. Any such license shall be void.

§ 113.06 APPLICATION FOR MASSAGE ESTABLISHMENT LICENSE.

- (A) No person shall allow massage therapy to be performed in or on a property they own without first obtaining a current Massage Establishment license from the Department of Health.
- (B) It shall be unlawful for any applicant operating a Massage Establishment to knowingly employ, in any capacity therein, any person who has been found in violation of any statute or ordinance pertaining to sex offenses, prostitution, keeping a house of ill fame, or maintaining a public nuisance.
- (C) An application for a Massage Establishment license shall be renewed annually and shall be:
 - (1) Made on or before February 28 of each calendar year; and
 - (2) Made on an application form provided by the Department of Health. On the form, the applicant shall provide the following information:
 - i. The legal name of the Massage Establishment;
 - ii. The current address and telephone number of the Massage Establishment and the address of the residence of the applicant;
 - iii. A picture of the owner of the Massage Establishment, who must be the applicant;
 - iv. The applicant's massage business or employment history for the three years immediately preceding the date of the application, including but not limited to whether the applicant has previously operated under a massage permit or license in another municipality and whether the applicant has had the permit or license suspended or revoked;
 - v. The reason for the suspension/revocation of any massage permit or license and all business activity or occupation subsequent to the action of suspension or revocation;

- vi. Information regarding the applicant's standing with any state, regional, or national agency of government charged with regulating massage therapy schools or programs;
 - vii. A register of all employees, showing the name, nicknames, and aliases used by each employee, as well as the home address, phone numbers, date of employment and termination, and duties of each employee;
 - viii. A detailed floor plan of the layout of the Massage Establishment, including the use of any other rooms not utilized for massage therapy;
 - ix. A list of rates, services, and hours of operation; and
 - x. A copy of the lease agreement showing proof of legal authority to operate the Massage Establishment at the location for the duration of the license period. This shall include the name, address, and phone number of the property owner.
- (D) The applicant shall provide documentation that the location of the business is properly zoned by the proper governmental agency in which the business is located.
- (E) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or chapter, together with the state and date of incorporation, and the names and addresses of each of its current officers.
- (F) The applicant cannot be the owner of multiple Massage Establishments with the same hours of operation if the applicant is listed as the only massage therapist at each Massage Establishment.
- (G) No building or Massage Establishment owner shall allow any person to reside within the premises of the Massage Establishment.
- (H) If during the term of a license, the license holder has any change in any information submitted on the original or renewal application, the license holder shall notify the Department of Health in writing of such change within ten (10) business days thereafter.

§ 113.07 INSPECTION OF MASSAGE ESTABLISHMENTS.

- (A) The Department of Health shall inspect Massage Establishment locations to determine compliance with this chapter.
- (B) Inspections are unscheduled and conducted during Massage Establishment hours of operation.
- (C) The premises may be inspected outside of business or operating hours, as necessary, in any situation that poses an immediate threat to life, property, or public safety, or for the purpose of preventing human trafficking and/or commercial sex activities in Massage Establishments.

- (D) An establishment claiming to be exempt from the provisions of this ordinance under Section 113.05 (B) may be inspected if the exemption is in question. The owner or manager of an establishment, or any other individual who claims to be exempt from this ordinance, shall produce documentation sufficient to show that the establishment or individual is exempt.

§ 113.08 LICENSE REQUIREMENTS FOR MASSAGE ESTABLISHMENTS.

- (A) It shall be unlawful for any person to operate a Massage Establishment in St. Joseph County without a valid license from the Department of Health. This license shall be prominently displayed for full viewing by the customer on the premises of the licensed Massage Establishment at all times during business hours. Only persons who own a facility that meets all of the applicable provisions of this chapter shall be entitled to receive and retain such a license.
- (B) All Massage Establishments shall pay an annual license fee as prescribed by St. Joseph County, which shall be paid to the St. Joseph County Department of Health at the time an application for license is filed. All license fees shall be payable on or before February 28 and shall be subject to the addition of a late penalty. This license shall not be transferable nor refundable.

§ 113.09 PERFORMING MASSAGE THERAPY WITHOUT A LICENSE.

- (A) The owners and/or operators of a Massage Establishment shall not allow massage therapy to be performed by any person that does not possess a current massage therapy license from the Department of Health.
- (B) The Department of Health shall suspend or revoke the license of any Massage Establishment where a person that does not possess a current massage therapy license from the Department of Health performs massage therapy.
- (C) If during an inspection there is no licensed massage therapist on the premises, the Health Officer shall immediately close the Massage Establishment. Any such violation may result in the Department of Health revoking or not renewing a license.
- (D) A person who is not working for a licensed Massage Establishment, or who has not obtained a license under this ordinance, may not use the word “massage” on any form of advertising unless the person or the organization is expressly exempt from this ordinance.

§ 113.10 MASSAGE ESTABLISHMENT FACILITIES.

- (A) Every Massage Establishment shall have a restroom with a minimum of one toilet, one washbasin equipped with both hot and cold water, anti-bacterial soap, sanitary towels, and a door capable of being locked for privacy.
- (B) If a shower is provided, it shall be a single person shower. Only customers shall be permitted to shower in the shower stall. No personal belongings shall be stored in the shower stall.

- (C) If a shower, steam room, or sauna is available for patron use, each shall be thoroughly cleaned with a disinfectant solution not less than once each day that the premises is open to patrons and more frequently as may be needed for proper sanitation.
- (D) Lighting in or on the Massage Establishment in colors other than white or natural is prohibited. Signs shall comply with applicable zoning requirements.
- (E) The Massage Establishment shall be equipped with appropriate storage of clean linens. There shall be storage for chemicals and biohazard receptacles for the storage of soiled linen.
- (F) No stuffed or upholstered furniture, beds, or mattresses shall be permitted in rooms in which massage is to be practiced or administered. In addition, no break room shall be equipped with beds, mattresses, or items that would indicate those rooms were being used as living quarters. The massage therapy rooms shall be equipped with massage tables having a hard surface impervious to liquids with a width of no more than three feet and a length of no more than eight feet. The surface of the tables shall be positioned at least two feet from the surface of the floor so as to allow for free access to the floor beneath. The tables may be equipped with either non-disposable pads or coverings or disposable coverings not more than two and one-half inches thick. Non-disposable pads or coverings shall be removable, impervious, and cleanable.
- (G) The Massage Establishment shall not be used or made available for accommodating any person for sleeping quarters. No beds, mattresses, cots, or other furniture for sleeping shall be permitted at the Massage Establishment. No Massage Establishment shall be operated or a massage conducted using any room or place which is also used for residential purposes. In any case where the Massage Establishment is located in a building that also includes living quarters, there shall be no direct connection between the Massage Establishment and the residential quarters. No one shall use the Massage Establishment for a place of habitation.
- (H) No Massage Establishment shall have an entrance or exit way providing a direct passageway to any other type of business, residence, or living quarters.
- (I) The following requirements shall be used to maintain clean and sanitary linens.
 - (1) Soiled linen shall be handled as little as possible and with minimum agitation to prevent gross microbial contamination of the air and of persons handling the linen.
 - (2) All soiled linen shall be bagged or put into carts at the location where it was used.
 - (3) Linen soiled with blood or body fluids, including perspiration, shall be deposited and transported in bags to prevent leakage and human contact with the blood or bodily fluids.
 - (4) Linen shall be washed with a detergent in water at least 71°C (160°F) for 25 minutes.

- (5) All washed linen shall be dried at a high temperature setting.
- (6) Clean linen shall be transported and stored using methods that will ensure its cleanliness.
- (J) The front of the Massage Establishment must have and maintain clear transparent glass or notify the Department of Health in writing that the building does not have glass at the front of the building. The glass must not be painted, darkened, or obstructed by any material. The front area where patrons are greeted must remain visible from the outside during business hours. All exterior windows of the Massage Establishment, except those in a room where massage therapy is performed, shall remain at least 75 percent uncovered by curtains or shades.
- (K) Any person performing massage therapy at the Massage Establishment shall prominently display their massage therapy license or a clearly legible copy for full viewing by the customer in the lobby or waiting area of the Massage Establishment.
- (L) The Massage Establishment owner shall keep and maintain a register of all employees, showing the name, nicknames, and alias used by each employee, as well as the home address, phone number, date of employment and termination, and the duties of each employee. Such records shall be maintained onsite and available upon request.
- (M) The Massage Establishment shall comply with 847 IAC 1-2-3 and 847 IAC 1-2-4, as amended from time to time, and allow the Health Officer access to all records required to be maintained thereunder.
- (N) The Massage Establishment shall display a human trafficking awareness poster provided by the Department of Health in English, Spanish, Chinese. The poster provided by the Department of health shall include:
 - (1) A description of human trafficking
 - (2) Information about indicators of human trafficking, such as restricted freedom of movement and signs of physical abuse, and
 - (3) Contact information for:
 - i. The Human Trafficking Hotline, including the toll-free telephone number and text line; and
 - ii. A local law enforcement agency.

§ 113.11 MESSAGE ESTABLISHMENT OPERATION.

- (A) All Massage Establishments and persons performing massage therapy shall comply with the following operating requirements. These requirements shall be prominently and publicly displayed in a conspicuous place upon every premises licensed under the provisions of this chapter.
 - 1. All Massage Establishments shall post the hours of operation so that they can be viewed from outside the Massage Establishment.

2. Massage Establishments shall at all times be equipped with an adequate supply of clean sanitary towels, coverings, and linens. Towels and linens shall not be used on more than one patron unless they have first been laundered and disinfected pursuant to Section 113.10(1). Disposable coverings and towels shall not be used on more than one patron.
3. Instruments utilized while performing a massage that come into direct contact with the patron's skin must be sterilized. These instruments must be kept in single-use packages until used and then re-sterilized before use again. Any instrument used during a massage that does not come into direct contact with the skin of the patron must undergo disinfection following its use. Massage table pads must undergo disinfection following their use. All chemical containers shall be stored in cabinets reserved solely for that purpose.
4. Massages shall not be given unless all patrons are wearing clothing fully covering their genitals and female patrons are additionally wearing clothing fully covering their breasts. Where such clothing is furnished to patrons by the Massage Establishment, it shall not be used by more than one patron unless it has first been laundered and disinfected pursuant to Section 113.10(1). Persons performing massage therapy shall be fully clothed from the knee to the neck in clean clothing.
5. Massages shall not be given to patrons who have open sores or other visual signs of contagion or communicable disease.
6. No person in any Massage Establishment under this section shall place their hand upon, touch with any part of their body, fondle in any manner, or massage a sexual and/or genital area of any other person. This includes, but is not limited to, the individual's sexual organs and the breasts of any female.
7. No person employed in any Massage Establishment under this section shall perform, offer, or agree to perform any act which shall require the touching of the patron's sexual and/or genital area.
8. Massage Establishments are prohibited from installing or maintaining any lock or similar device on any door to an area where massage therapy services are provided.
9. No patron shall enter the Massage Establishment through any door other than the front. The front entrance to the Massage Establishment shall remain unlocked and unobstructed in any way during business hours, including while any massage is being administered therein. No patron shall enter or exit the Massage Establishment through the back exterior doors.
10. Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers. If the Massage Establishment operates by appointment only, rates and services may be posted on an online website.
11. No Massage Establishment or persons employed in any Massage Establishment, by means of statement, solicitation, offer in print or electronic

publication, sign, placard, storefront, or other medium, shall publish or distribute, any advertisement, picture, or statement that is sexually suggestive or implies sexual activity.

12. No bathing or cleaning of a customer shall be performed by any person other than the customer.
13. A licensed massage therapist shall be on the premises at all hours that the Massage Establishment is occupied by patrons or is open to the public. If during the inspection there is no licensed massage therapist, the Massage Establishment must cease operations and close until a licensed therapist is on the premises.
14. At the time of the inspection, the inspector shall verify the identity of all on-duty massage therapists by checking each massage therapist's photo identification and massage therapist license.

§ 113.12 MASSAGE THERAPY LICENSES.

- (A) No person shall perform massage therapy without first obtaining a current massage therapy license from the Department of Health.
- (B) An application for a massage therapy license shall be:
 - (1) Made on or before February 28 of each calendar year; and
 - (2) Made on an application form provided by the Department of Health which shall include:
 - i. The legal name of the applicant;
 - ii. The current, local address where the applicant will reside while performing massage therapy in St. Joseph County, as well as the applicant's two previous addresses and dates of residence at each. If the applicant cannot provide a local address or the address given is deemed not local, a variance can be signed by the Health Officer after review. The Health Officer must sign off on the variance for a license to be granted.
 - iii. A copy of the applicant's driver's license or other government issued identification;
 - iv. A copy of the applicant's Indiana State Board of Massage Therapy Certificate;
 - v. A copy of the applicant's diploma or certificate of graduation from the recognized school of massage therapy where the applicant received training in massage therapy;
 - vi. The names of all the Massage Establishments at which the applicant is or expects to be employed, and the applicant's previous business,

occupation, or employment during the two years immediately preceding the date of application; and

- vii. Any other related information as may be deemed reasonable and necessary by the Department of Health to determine the validity of the applicant's diploma or certificate from a recognized school.
- (C) The Massage Establishment where the applicant intends to work must possess a current Massage Establishment license from the Department of Health.
- (D) If the Indiana State Board of Massage Therapy ceases to require background checks for applicants or to validate the massage therapy school which provided training to the applicant, Section 113.12 (B)(2)(iv) shall not be required. Instead, the applicant shall provide to the Department of Health clear, verifiable, and convincing information that the school that provided the applicant's training in massage therapy is a recognized school as defined in Section 113.04 and that the applicant received a certificate or diploma in massage therapy that included 625 hours of applicable classroom training. This information shall include one of the two items listed below:
- (1) A statement from one of the organizations listed in the definition of recognized school found in Section 113.04 that the school is a member in good standing; or
 - (2) Sufficient information for the Department of Health to determine the school is a recognized school and the applicant completed the required training. In making this determination, the Department of Health may require the following:
 - i. Licensing or membership information showing the school is a recognized school;
 - ii. Requirements for a student to obtain a certification or diploma;
 - iii. Information concerning suspension or cancellation of any massage license, approval, of certifications in the last 10 years;
 - iv. Transcripts of classroom study;
 - v. A certification of graduation or diploma reasonable and necessary for the Department of Health to determine the school is a recognized school and the applicant for a license has obtained the required training and certification or diploma; and
 - vi. Any other information as may be deemed reasonable and necessary for the Department of Health to determine the school is a recognized school and the applicant for a license has obtained the required training and certification or diploma.

§ 113.13 MASSAGE THERAPY REQUIREMENTS.

- (A) It shall be unlawful for any person to perform massage therapy in St. Joseph County unless they have a valid license issued pursuant to the provisions of Section 113.12. A massage therapy license shall be valid for a term of one year and shall be renewed annually on or before February 28.
- (B) An annual massage therapy license fee as prescribed by St. Joseph County shall be paid to the St. Joseph County Department of Health at the time an application for a license is filed. All license fees shall be payable on or before February 28 or shall be subject to the addition of a late penalty.

§ 113.14 ENFORCEMENT.

- (A) The Board of Health may adopt, amend, or rescind any rules, regulations, and standards to carry out the purposes and intent of this chapter and as necessary for proper enforcement.
- (B) The Health Officer or an authorized representative, bearing proper credentials and identification, may enter upon and inspect a Massage Establishment where massage therapy is performed, for such purposes as inspections, observation, and records examination necessary to carry out the provisions of this chapter.
 - (1) In the event a person who has common ownership over a building or structure or their authorized representative, or the Massage Establishment licensee or their authorized representative, does not permit an inspection by an authorized representative of the Department of Health, it shall be grounds for the immediate suspension of the license to perform massage therapy at the Massage Establishment. The suspension shall remain in effect unless rescinded by the Health Officer through the process described in Sections 113.14.(D) and (E). Failure of the person to permit an inspection will be sufficient grounds and probable cause for a court of competent jurisdiction to issue an administrative warrant for the purpose of inspecting and records examination necessary to carry out the provisions of this chapter.
- (C) Whenever the Department of Health determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, the Department of Health shall give notice in writing of the alleged violation to the person or persons responsible thereof, and to any known agent of the person. This notice shall:
 - (1) Include a statement of reasons why it is being issued;
 - (2) Allow a reasonable time for the performance of any required corrective action;
 - (3) Describe the penalty that is imposed for the violation; and
 - (4) Be served upon the owner, the owner's agent, or the operator, as the case may require. The notice shall be deemed to be properly served upon the owner, the

owner's agent or the operator if a copy is served upon them personally, if a copy is sent by certified mail to their last known address, ~~or~~ if a copy is posted in a conspicuous place in the dwelling affected by the notice, or if they are served with the notice by any other method authorized or required under Indiana law.

- (D) Any person affected by any notice issued by the Department of Health may request, and shall be granted, a hearing to appeal the notice before the Health Officer, provided that the person shall file a written petition to appeal with the Department of Health within 15 days after service of the notice. The written petition shall request a hearing and set forth a brief statement of the grounds for appeal, and it must be hand-delivered or sent by mail postmarked within 15 days after service of the notice.
 - (1) Any notice properly served shall automatically become an order if a written petition for a hearing is not filed with the Department of Health within 15 days after the notice is served.
 - (2) Any license which has been suspended by a notice shall be deemed to be automatically revoked if a petition for a hearing is not filed with the Department of Health within 15 days after the notice is served.
- (E) Upon receipt of the petition, the Health Officer shall arrange a time and place for the hearing and shall give the petitioner written notice. The hearing shall be held as soon as practicable after the receipt of the petition. The matter shall be held in an open hearing. At the hearing, the petitioner shall be given an opportunity to be heard and to show cause why the notice should not be complied with.
- (F) After the hearing, the Health Officer shall sustain, modify, or withdraw the notice in writing to the petitioner, depending upon the findings as to whether the provisions of this chapter have been complied with. The decision of the Health Officer shall be a final order.
- (G) Whenever the Health Officer finds that an emergency exists that requires immediate action to protect the public's health, the Health Officer may, without notice or hearing, issue an order reciting the existence of the emergency, and requiring the action to be taken as the Health Officer deems necessary to meet the emergency, including the immediate suspension of a Massage Establishment or massage therapy license. Notwithstanding any other provisions of this chapter, the order shall be effective immediately. Any person receiving such an order may seek a hearing under subsections (D) and (E) of this section and shall have the right to recover any of their response costs to the extent that the order or any portion thereof is found to have been arbitrary or capricious or otherwise not in accordance with law. After such consideration, depending upon the findings as to whether the provisions of this chapter have been complied with, the Health Officer shall continue the order in effect, modify, or revoke the license.

§ 113.15 VARIANCES.

- (A) The Health Officer shall consider a petition for variances and exemptions from provisions of this chapter and shall render a decision in writing no later than 60 days

after the petition is submitted to the Health Officer. A decision by the Health Officer shall be a final order.

§ 113.16 DISCLAIMER OF LIABILITY.

- (A) This chapter shall not create liability on the part of the Department of Health or any officer, employee, or agent thereof for any damage that may result from reliance on this chapter or on any administrative decision lawfully made thereunder.
- (B) All inspections shall be at the discretion of the Department of Health, and nothing in this chapter shall be construed as requiring the Department of Health to conduct any inspection, nor shall any inspection imply a duty to conduct any other inspection. Nothing in this chapter shall be construed to hold the Department of Health responsible for any damage to persons or property by any failure to make an inspection or re-inspection.

§ 113.17 SEVERABILITY.

If any section or part of this chapter is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, that holding shall not affect the validity of the remaining portions of the chapter, and the remaining portions shall be and remain in full force and effect.

§ 113.99 PENALTY.

- (A) Any person determined by the Health Officer to be in violation of this chapter shall be punished for each offense by a penalty established by the Health Officer for first, second, and subsequent offenses, as set out in the Appendix: Schedule of Fines and Fees.
- (B) Each day a person fails to perform the corrective action in accordance with the schedule identified in an abatement order issued by the Health Officer shall constitute a distinct and separate violation.
- (C) The Health Officer may restrict, suspend, or revoke any license issued pursuant to the provisions of this chapter for:
 - (1) Repeated substantive violations of this chapter;
 - (2) Failure to perform a corrective action ordered by the Department of Health;
 - (3) Providing false information to the Department of Health;
 - (4) Knowingly hiring an employee to perform massage therapy without a current massage therapy license from the Department of Health;
 - (5) Employing, in any capacity therein, any person who has been found in violation of any state statute or local ordinance pertaining to sex offenses, prostitution, keeping a house of ill fame, or maintaining a public nuisance;

- (6) Violating any local rules, ordinances, or safety codes; or
 - (7) When determined by the Health Officer to be reasonable and necessary to protect public health or safety.
- (D) Any person who has had a Massage Establishment or massage therapy license revoked in St. Joseph County shall not be eligible to apply for a new license for a period of two years thereafter.
- (E) Failure to comply with any of the requirements of this ordinance shall result in a violation punishable by fine or revoking of a license. Each day shall constitute a separate offense.
- (F) Any person violating any provisions of this chapter shall also be liable to the Department of Health for any expense, loss, or damage occasioned by reason of the violation, including the costs for labor, supplies, equipment, and services.