§ 117.01 PURPOSE.

State of Iowa licensed massage therapists and businesses offering massage therapy services perform an important service in addressing the health and wellbeing of our citizens. Unfortunately, there are businesses that advertise they provide massage therapy and/or other therapeutic services, but they are engaged in various illegal activities which may include prostitution and/or human trafficking. This chapter is not intended to discourage a legitimately licensed massage therapist or massage therapy business from providing their services in the city of Newton. The purpose of this ordinance is to identify and address businesses that engage in the practice of massage therapy without a license and/or are involved in illegal activities which may include prostitution and/or human trafficking. Businesses providing massage therapy yet conducting various types of illegal activity are harmful to the city and the image of the massage therapy profession. The implementation of this ordinance will better enable the city to proactively screen, monitor and remove businesses that are engaged in illegal activity.

(Ord. 2318, passed 1-3-2018)

§ 117.02 DEFINITIONS.

For the purposes of this chapter, the following words and phrases have the meanings herein set forth, unless it is apparent from the context that a different meaning is intended.

LICENSE. Permission granted by competent authority to exercise a certain privilege that, without such authorization, would constitute an illegal act. The document that confers permission to a person to engage in massage therapy shall be issued by the Iowa Board of Massage Therapy for State of Iowa; massage therapy business licenses shall be issued by the City of Newton.

MASSAGE PATRON. Any person who receives, or pays to receive, a massage or massage services from a massage therapist for value.

MASSAGE THERAPIST. A person licensed to practice the health care service of the healing art of massage therapy under Iowa Code, Chapter 152C.

MASSAGE THERAPY. Performance for compensation of massage, myotherapy, massotherapy, bodywork, bodywork therapy, or therapeutic massage including hydrotherapy, superficial hot and cold applications, vibration and topical applications, or other therapy which involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus system for the purpose of enhancing health, muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation.

MASSAGE THERAPY BUSINESS. Any business or place of business, including mobile, temporary, and transient businesses, wherein, or on whose behalf, any of the treatments, techniques, or methods of treatment referred to in subsection E are administered, practiced, used, given or applied.

REFLEXOLOGY. Manipulation of the soft tissues of the human body which is restricted to the hands, feet, or ears, performed by persons who do not hold themselves out to be massage therapists or to be performing massage therapy.

(Ord. 2318, passed 1-3-2018)

§ 117.03 LICENSE REQUIRED.

No person shall operate a massage therapy business, either exclusively or in connection with another business, without being licensed as provided in this chapter.

(Ord. 2318, passed 1-3-2018)

§ 117.04 LICENSE FEE.

(A) *New massage therapy businesses to Newton.*

(1) The initial license fee for a new massage therapy business to the City of Newton is $50. The initial license fee and application fee (s) shall be paid when the application is filed.

(2) The license, if granted, and not revoked or suspended, shall be valid so long as the business does not materially change ownership, business name or the service provided. An annual review shall be initiated by the City Clerk, with assistance from the police department, to confirm business ownership, business name, service(s) provided, and accurate and up-to-date state licenses for the employees performing massage therapy.

(B) *Existing massage therapy businesses within the City of Newton.* All existing massage therapy businesses shall apply for licensure within 60 days of the effective date of this chapter. For a massage therapy business applying for licensure in the initial year of this chapter's effective date (July 1, 2017 through June 30, 2018) the licensing fee identified in division (A)(1), above, is waived. If an application properly submitted during the first year of the ordinance is approved, and the massage therapy business remains in continuous operation, future renewal fees for a massage therapy business license will be waived. The business will be required to go through the annual review process.

(C) A separate license shall be obtained for each place of business. The licensee shall display the license in a prominent place in the licensed business at all times.

(D) During the 12 month licensed period, the massage therapy businesses will be required to notify the City Clerk of changes in massage therapist staffing and/or business manager.

(Ord. 2318, passed 1-3-2018)

§ 117.05 APPLICATION.

Application for a massage therapy business license shall be made on forms provided by the City Clerk's Office. The application shall include:

(A) The address of the property to be used and documentation establishing the applicant's interest in the premise on which the business will be located, which shall be in the form of a lease, deed, or other document that establishes the applicant's interest;

(B) The names, ages, and addresses of the applicant, owner, manager and all employees, agents, contractors, or other persons, who are or will be present on the premises to perform massage therapy, regardless of the legal relationship between the licensee and the persons performing such massage therapy services;

(C) Dates and locations of other places the applicant has owned or operated as a massage therapy business;

(D) Descriptions of all crimes or other offenses, including the time, place, date and disposition for which the applicant, owner, manager, and all persons employed by the applicant or present on the premise to perform massage therapy have been arrested, charged, or convicted;

(E) A statement as to whether the applicant, owner, manager, or any person providing massage therapy on behalf of the massage therapy business has had any license to perform massage therapy denied, revoked or suspended in any city, state, county, or any country and the reason for the denial, revocation or suspension;

(F) A government issued photo ID of the applicant, owner, manager and all employees or persons present on the premises who are or will be employed to perform massage therapy;

(G) Such other information as the Chief of Police may require for purposes of conducting a background check. If it is determined that a nationwide background check is required, the applicant may be responsible for the expense to complete the background check.

(H) Provide proof of current State of Iowa massage therapy license for all employees who are or will be employed or present on the premises to perform massage therapy.

(Ord. 2318, passed 1-3-2018)

§ 117.06 GRANTING OR DENIAL OF LICENSE.

Business license applications shall be reviewed by the Chief of Police, who after considering all of the information provided and obtained in the background check shall either grant or deny the license.

(Ord. 2318, passed 1-3-2018)

§ 117.07 CONDITIONS GOVERNING ISSUANCE.

(A) No license shall be issued if the applicant or any of its owners, managers, employees, contractors, agents, or other persons performing massage therapy at or on behalf of the Massage Therapy Business has a criminal conviction for a sex crime as defined by Iowa Code Chapter 709, or for Prostitution as defined by Iowa Code Chapter 725, or for keeping a house of prostitution as defined by Iowa Code Chapter 657, or who is a registered sex offender, or who has been denied a license by any other community.

(B) Licenses shall be issued only if the applicant and all of its owners, managers, employees, contractors, agents, or other persons performing massage therapy at the massage therapy business are free of convictions for offenses which involve sex crimes or which relate directly to such person's ability or fitness to legally and safely perform the duties and discharge the responsibilities of the licensed activity.

(C) Licenses shall only be issued to applicants who have provided all of the information requested in the application, have paid the license and application fee, if applicable, and have cooperated with the Chief of Police and other city officials in review of the application.

(D) The business license, if issued, shall be displayed on the business premise in a conspicuous public area.

(Ord. 2318, passed 1-3-2018)

§ 117.08 EXEMPTIONS.

This chapter shall not apply to the following businesses:

(A) Businesses who employ or provide the services of persons who are licensed to practice medicine or surgery, osteopathic medicine and surgery, chiropractic, cosmetology arts and

sciences, or podiatry in Iowa: or athletic trainers, nurses, occupational therapists, physical therapists, or physician assistants licensed, certified, or registered in this state or acting under the prescription or supervision of a person licensed to practice medicine, surgery, osteopathic medicine, or chiropractic in this state.

(B) Massage Therapists who are employed or are contracted to perform massage therapy in a business identified in division (A) (above).

(C) Businesses who employ or provide the services of persons who are licensed, registered, or certified in another state, territory, the District of Columbia, or a foreign country when incidentally and temporarily present in this state to teach a course of instruction related to massage therapy and bodywork therapy.

(D) Businesses which offer the services of students enrolled in a program recognized by the State Board of Massage Therapy while completing a clinical requirement for graduation performed under the supervision of a person licensed.

(E) Persons giving massage therapy and bodywork to members of their immediate family.

(F) Persons practicing reflexology.

(G) Persons engaged within the scope of practice of a profession with established standards and ethics utilizing touch, words, and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement, provided that the practices performed or services rendered are not designated or implied to be massage therapy. Such practices include, but are not limited to, the Feldenkrais method, the Trager approach, and mind-body centering.

(H) Persons engaged within the scope of practice of a profession with established standards and ethics in which touch is limited to that which is essential for palpitation and affectation of the human energy system, provided that the practices performed or services rendered are not designated or implied to be massage therapy.

(I) Persons incidentally present in this state to provide services as part of an emergency response team working in conjunction with disaster relief officials.

(Ord. 2318, passed 1-3-2018)

§ 117.09 GROUNDS FOR DENIAL AND REVOCATION OR SUSPENSION.

It shall be grounds for denial, revocation and/or suspension of an application or massage therapy business license if one or more of the following conditions are met:

(A) If the applicant or licensee is not complying with or has a history of violations of the laws and ordinances that might adversely impact public health or safety.

(B) If the licensee solicits or advertises to offer services that are a violation of this chapter.

(C) If the licensee is convicted of any violation, reasonably related to the licensed activity and/or occurring on the licensed premise, of any city ordinance or federal or state statute.

(D) If there is fraud or deception involved in the license application.

(E) If the licensee is found to be in control or possession of any narcotic drugs or controlled substances on the premises for which they are licensed to operate, possession of which is illegal as defined by Iowa Statutes or city ordinances.

(F) If the licensee has, in the past, engaged in willful disregard for health codes and regulations.

(G) If the applicant fails to provide all the information and certificates required by this chapter.

(H) If the licensee permits an unlicensed individual(s) to conduct massage therapy services at the licensee's premises.

(I) If the licensee refuses to permit any authorized police officers or authorized city, county, or state governmental official to inspect the premises or operations.

(J) If the licensee is found to be violating provisions of this chapter or the Iowa Code.

(K) If the business promotes its services on websites that are known to advertise services that are illegal.

(Ord. 2318, passed 1-3-2018)

§ 117.10 APPEAL PROCESS.

(A) If an applicant has been denied, revoked or suspended pursuant to this chapter, then said applicant may file a written request with the City Administrator for review of the decision of the Chief of Police within ten days from the receipt of said notice of denial, revocation or suspension. Failure to file a written request for review of the decision within this time frame shall constitute a waiver of any right to contest the decision to deny, revoke or suspend a license.

(B) Within ten days of the receipt of a request to review a decision of denial, revocation or suspension of any applicant's license, the City Administrator shall notify the applicant of a date, time and place for a hearing to review the decision of the Chief of Police. Said hearing shall be

informal and the applicant may present any oral or written testimony the City Administrator deems pertinent.

(C) Within ten days from the hearing held pursuant to division (B), the City Administrator will provide a written findings and decision to the applicant.

(D) If the applicant's denial, revocation or suspension is upheld by the City Administrator, the applicant may then appeal said decision to the District Court pursuant to the laws of the State of Iowa.

(Ord. 2318, passed 1-3-2018)

§ 117.11 RESTRICTION AND REGULATIONS.

(A) *Compliance with law.* The licensee and persons in its employ shall comply with all applicable regulations and laws of the city and state.

(B) *Person in charge.* If the applicant is a partnership, corporation or other organizations, the applicant shall designate a person to be manager and in responsible charge of the business. The manager shall be a resident of Iowa. The manager shall provide written consent to serve as an agent for service of notices and other process relating to the business. The manager shall remain responsible for the conduct of the business until another suitable person has been designated in writing by the licensee. The licensee shall promptly notify the City Clerk in writing of any change indicating the address of the new manager and the effective date of such change.

(C) *Hours of business.* The licensed premises shall not be open for business nor shall patrons be permitted on the premises between the hours of 10:00 p.m. and 6:00 a.m.

(Ord. 2318, passed 1-3-2018)

§ 117.99 PENALTY.

A person who commits or attempts to commit, conspires to commit or aids or abets in the commission of an act constituting a violation of this chapter, whether individually or in connection with one or more other persons or as principal, agent, or accessory is guilty of a simple misdemeanor. A person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, permits or directs another to violate a provision of this chapter is guilty of a simple misdemeanor.

(Ord. 2318, passed 1-3-2018)

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