



*Caring People • Quality Programs • Exceptional Service*

# MEMO

**ITEM NO.: 3**

**To:** Mayor and City Council  
**From:** Brian Phillips, Assistant City Manager  
**Date:** April 16, 2019  
**Subject:** Massage Parlor/Human Trafficking Workshop

The topic of the City Council's April 16<sup>th</sup> Workshop is the potential regulation of massage establishments in an effort to address illicit massage businesses and human trafficking.

**Workshop Invitees:**

City staff has notified the requestors of the workshop (George Belitsos and Michelle DeMarie). Additionally, staff has sent email and U.S. Mail notifications to businesses in the community whose listings appear through a web search for massage services in Ames.

**Previous Staff Report and Updates:**

On August 18, 2017, City staff provided the Council with a staff report regarding the regulation of massage establishments (Attachment 1).

Since the issuance of the 2017 report, several cities in Iowa have developed local massage business regulations using a variety of approaches. They include: Des Moines (December 2018), Cedar Rapids (November 2018), and Iowa City (September 2018). In November 2017, the City of Sioux City passed first reading of an ordinance regulating massage establishments, but the proposal did not pass into adoption on subsequent readings.

The Des Moines ordinance (Attachment 2) requires massage therapists to hold an Iowa massage therapy license, and to have the license available at all times. Failure to comply is a municipal infraction, and the Police Department is empowered to place a placard at the front of the business declaring it unsafe to enter until a license is obtained. Iowa City's ordinance is similar, but also requires the business to produce information regarding its employees and their credentials upon demand of the City.

Cedar Rapids uses a more intensive approach, where a separate city massage license must be obtained. There is a \$60 biannual fee for the license, which requires completion of criminal background checks for massage therapists.

**Staff Comments:**

City staff believes the best strategy to address human trafficking would be to enhance the existing state licensing requirements. However, if the City Council chose to pursue local regulations regarding massage businesses, staff would recommend an approach similar to that used by Des Moines. That approach appears to be the least costly alternative for the city to enforce and for businesses to comply with, while still addressing concerns about illicit massages and human trafficking.

Staff Report

**REGULATION OF MASSAGE ESTABLISHMENTS**

August 18, 2017

**BACKGROUND:**

This report is in response to a June 27, 2017, City Council motion requesting a report on massage licensing and what is currently being done by the Ames Police Department with respect to human trafficking. This request followed comments to the City Council during public comments section of the meeting.

Materials provided to the Council include a local ordinance from the City of Johnston. **The Johnston ordinance requires that local massage businesses have a license in order to operate in the City of Johnston. It also provides authority for the local police department to oversee massage parlor licensing including application, licensing, and renewal.**

**License applications must identify any location or property involved in the business, provide a list of employees and any criminal offenses committed by these employees, photo identification of all employees, and insurance information. Licenses may be denied under this ordinance if owners, managers, employees, or agents have been convicted of sex crimes or related offenses.**

**POLICE DEPARTMENT ACTIVITY RELATED TO HUMAN TRAFFICKING:**

The Ames Police Department has staff members specifically trained in human trafficking investigations, maintains law enforcement investigative networks devoted to this issue, and collaborates with other agencies in the enforcement of potential or confirmed incidents of trafficking. In addition, the department has developed working relationships with human service agencies in order to support trafficking victims.

Over the past several years the Police Department has investigated two massage service incidents with potential trafficking characteristics. In one case, cooperating victims were working with a federal agency and in the second case, no trafficking connections were established. **It should be noted that trafficking can occur in a variety of commercial and private employment settings beyond massage services.**

### **CURRENT LICENSING PROCESS AND REGULATION:**

The State of Iowa licenses massage therapists. The State Licensing Board has a procedure for addressing complaints. The State Licensure Board online enforcement history shows three disciplinary actions within the City of Ames. Two of those three cases are based on facts developed through the Ames Police Department. The most recent of these was based on a complaint and investigation by the Police Department. Based on that investigation, May Spa was notified of a state penalty for employing an unlicensed massage therapist. A second case involved a license infraction based on a sexual assault investigation against the practitioner. This case was developed by the Ames Police Department based on a complaint. The third case involved inadequate continuing education credits and was resolved in an agreement with the Board. **Allegations of criminal misconduct are appropriate for investigation by the Ames Police Department and have resulted in both criminal charges and licensing actions by the state regulatory board. The Police Department has no involvement in cases which do not have a potential element of criminal misconduct.**

### **OTHER CONSIDERATIONS:**

From a legal perspective, non-criminal violations are typically directed to the licensing board or to the appropriate local, non-criminal enforcement authority. Zoning, fire code, or health violations or complaints would be referred to the appropriate state or local enforcement authority for those non-criminal violations. If any of these non-criminal enforcement entities encounter evidence of criminal behavior, there is an opportunity to involve police in further investigations. Even in the case of liquor licenses, police may be on the premises primarily to enforce criminal code violations. While police have some knowledge of potential liquor license violations, they are not the licensing authority nor do they stand as the "expert" inspector of the license requirements.

The City of Ames has no general business license requirement. Liquor licenses, peddler's permits, and other regulation and licensing of commerce are managed through the Ames City Clerk's Office. Historically, the enforcement of these regulations, including the inspection for compliance, has been kept separate from police investigative services to allow the regulating agency greater flexibility in conducting routine enforcement activity.

### **STAFF COMMENTS:**

**The use of law enforcement authority and the tools of criminal investigation are viewed by the courts as more intrusive than civil licensing statutes and are generally not appropriate for the enforcement of business regulatory laws. Even**

liquor license regulation is generally handled through administrative channels although some violations may involve criminal penalties.

In addition, the Police Department is not well suited for regulatory enforcement. There are no personnel with appropriate expertise in the subject of therapist licensing. Police training focuses on criminal law investigation and enforcement. **Under the current Police Department organization, there is no administrative mechanism to manage business licensing, applicant review, on-site inspections, or enforcement of administrative licensing requirements. Creation of these functions within the Police Department would bring costs for training, software, and administration.**

It should be noted that currently the City of Johnston is the only community that has this ordinance in place. At least two other Iowa communities (Marshalltown & Dubuque) are considering a local ordinance to address the concerns raised in comments to the City Council.

ORDINANCE NO. 15,734

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by adding and enacting a new Article X. Massage Therapy, Chapter 30 Businesses, relating to identifying and addressing businesses that engage in the practice of massage therapy without valid licenses and/or are involved in illegal activities.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by adding and enacting a new Article X. Massage Therapy, Chapter 30 Businesses, relating to identifying and addressing businesses that engage in the practice of massage therapy without valid licenses and/or are involved in illegal activities., as follows:

**Article X. Massage Therapy**

**Sec. 30- 450. Purpose.**

The State of Iowa licenses massage therapists at Iowa Code Chapter 152C. State licensed massage therapists and businesses offering massage therapy services perform an important service in addressing the health and well-being of Des Moines residents. Unfortunately, there are businesses that advertise they provide massage therapy and/or other therapeutic services, but engage in various illegal activities, which may include prostitution and/or human trafficking. This Article is not intended to discourage legitimate, licensed massage therapists or massage therapy businesses from providing their services within Des Moines. The purpose of this ordinance is to identify and address businesses that engage in the practice of massage therapy without valid licenses and/or are involved in illegal activities, which may include prostitution and/or human trafficking. Businesses providing massage therapy, but also conducting various types of illegal activity, are harmful to the health, safety, and welfare of the City and negatively impact the massage therapy profession.

**Sec. 30-451. Definitions.**

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

- (1) "Massage therapist" means a person licensed under Iowa Code Chapter 152C to practice the health care service of the healing art of massage therapy in the City of Des Moines.

- (2) "Massage therapy business" means 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 as "massage therapy" are administered, practiced, used, given, advertised or applied.

**Sec. 30-452. State License Required.**

The practice of massage therapy, as defined in Iowa Code Chapter 152C, is prohibited by unlicensed individuals. It is unlawful for a person to engage in or offer to engage in the practice of massage therapy, or use in connection with the person's name, the initials "L.M.T." or the words "licensed massage therapist", "masseur", "masseur", or any other word or title that implies or represents that the person practices massage therapy, unless the person possesses a license issued under the provisions of Iowa Code section 152C.3

**Sec. 30-453. Display of License.**

Each massage therapist shall keep his/her license in possession at all times while doing business in the city and shall, upon request of a prospective customer or city official, exhibit the license as evidence of compliance with all requirements of this Article.

**Sec. 30-454. Penalties.**

- (a) A violation under this Article is declared to be a municipal infraction in addition to a misdemeanor and any person, or in connection with one or more persons or as principle, agent, or accessory found violating any provision of this Article, shall be subject to the general penalty provisions of section 1-15 of this Code to include both criminal and/or civil penalties.
- (b) The Chief of Police, or designee, shall place in a highly noticeable location a placard stating "Unsafe to Enter; Unlicensed Massage Therapy Must Cease and is subject to criminal and/or civil penalty per Des Moines Municipal Code section 30-454." This notice shall remain posted until a valid state license is obtained or other legal use has been established.
- (c) No person shall remove the placard posted pursuant to subsection (b) of this section without approval of the Chief of Police or designee.
- (d) No person, or in connection with one or more persons or as principle, agent, or accessory shall continue to offer "massage therapy" services after a massage therapy business has been placarded as unsafe for entry unless the Chief of Police or designee has approved removal of the placard.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Douglas P. Philip, Assistant City Attorney

T. M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 18-2098), passed by the City Council of said City at a meeting held December 17, 2018 signed by the Mayor on December 17, 2018 and published and provided by law in the Business Record on January 4, 2019. Authorized by Publication Order No. 10562.

Diane Rauh, City Clerk



## THE RASSAGE FOR HEALTH

2010 Philadelphia Street, Suite #6  
Ames, IA 50010 / Phone 515-292-8684

April 6, 2019

Mr. Brian Phillips  
Assistant City Manager  
City of Ames/City Manager's Office  
515 Clark Avenue  
Ames, IA 50010

Dear Mr. Phillips,

Thank you for your letter of invitation (December 19, 2018), but due to my work schedule I will be unable to attend the Ames City Council meeting on Tuesday April 16th. I would, however, like to provide some thoughts on the topic of the City of Ames possibly adopting a local ordinance to address restricting illicit massage businesses. To that end, I have enclosed a copy of the ordinance that the Des Moines City Council recently approved, which I believe reflects a reasonable approach to the issue.

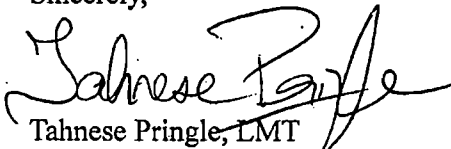
I hope the Ames City Council will abandon any moves to establish a city ordinance that would impose additional regulations for local Licensed Massage Therapists (LMTs). We, the state licensed massage therapists, do not wish to be punished, directly or indirectly for violations by those who have chosen to engage in illicit massage. If these individuals are forced to equally abide by the existing State licensing requirements (including continuing education and being members of professional boards), it will either keep them fully accountable or dissuade them from pursuing illicit practices.

I believe that it is crucial to enforce the current State of Iowa statutes that require massage therapists to hold and display their hard-earned State Licensing Certificates. In my opinion, better local enforcement of the existing Iowa laws governing massage therapy is the best solution.

Placing additional requirements on LMTs would be a step backwards, causing undeserved burdens for those of us who have worked very hard to institute and maintain professional State licensing legislation to uphold our legitimate profession.

Thank you for your consideration.

Sincerely,



Tahnese Pringle, LMT  
State of Iowa License # 00100  
NCBTMB # 006509-00  
ABMP # 1101678

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