

ORDINANCE NO. _02-19-2024 #01 (654)_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALTOONA, IOWA, 2017, BY REPEALING CHAPTER 125, MASSAGE THERAPY BUSINESS LICENSING AND REPLACING IT WITH THE NEW CHAPTER 125, MASSAGE THERAPY AND REFLEXOLOGY BUSINESS LICENSING.

BE IT ENACTED by the City Council of the City of Altoona, Iowa:

SECTION 1. The Code of Ordinances of the City of Altoona, Iowa, 2017 is amended by repealing Chapter 125 and replacing it with new updated chapter 125 (attached **SUMMARY**), which is hereby adopted as stated.

Chapter 125 has been amended to add Reflexology Businesses to the existing Massage Therapy Business Licensing Ordinance. The State of Iowa does not license reflexologists and reflexology businesses in section 152C of the Iowa Code. Legitimate reflexologists and businesses offering reflexology services perform an important service in addressing the health and wellbeing of Altoona's residents. The purpose of this Ordinance is to identify and address businesses that engage in the practice of reflexology without a license and/or are involved in illegal activities. In general, all requirements of the prior version of this ordinance related to Massage Therapy Businesses applications and licensing now have also been expanded to include Reflexology Businesses as well unless there are sections that do not apply due to Reflexology not requiring a license through the State of Iowa in section 152C of the Iowa Code.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved by the Council on the 19th day of February 2024.

Signed: Jeremy Boka, Mayor Pro Tem

ATTEST: Randy Pierce, City Clerk

First Reading: 2/19/2024

Second Reading: 2/19/2024

Third Reading: 2/19/2024



ORDINANCE NO. 02-19-2024 #01 (654)

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALTOONA, IOWA, 2017, BY REPEALING CHAPTER 125, MASSAGE THERAPY BUSINESS LICENSING AND REPLACING IT WITH THE NEW CHAPTER 125, MASSAGE THERAPY AND REFLEXOLOGY BUSINESS LICENSING.

BE IT ENACTED by the City Council of the City of Altoona, Iowa:

SECTION 1. The Code of Ordinances of the City of Altoona, Iowa, 2017 is amended by repealing Chapter 125 and replacing it with new updated chapter 125 (attached hereto), which is hereby adopted as stated.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.


SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALTOONA, IOWA, on this 19th day of February, 2024.

CITY OF ALTOONA, IOWA

By: 
Jeremy Boka, Mayor Pro Tem

ATTEST:


Randy Pierce, City Clerk

Passed by the Council the 19th day of February, 2024, and approved this 19th day of February, 2024.

First Reading: 02/19/2024

Second Reading: 02/19/2024

Third Reading: 02/19/2024

Council Vote:

	Ayes	Nays	Absent	Abstain
Boka	✓			
Duer	✓			
Dunwoody			✓	
Evans	✓			
Stewart	✓			

CHAPTER 125

MASSAGE THERAPY AND REFLEXOLOGY BUSINESS LICENSING

125.01 Purpose

125.02 Definitions

125.03 License Required

125.04 License Fee

125.05 Application

125.06 Granting or Denial of License

125.07 Conditions Governing Issuance

125.08 Exemptions

125.09 Grounds for Denial and Revocation or Suspension

125.10 Appeal Process

125.11 Restriction and Regulations

125.12 Penalty

125.13 Severability Clause

125.01 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 ordinance IS NOT intended to discourage a legitimately licensed massage therapist or massage therapy business from providing their services in the City of Altoona. 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 of Altoona and the image of the massage therapy profession.

Unlike massage therapy, the State of Iowa does not license reflexologists and reflexology businesses in section 152C of the Iowa Code. Legitimate reflexologists and businesses offering reflexology services perform an important service in addressing the health and wellbeing of Altoona's residents. Unfortunately, there are businesses that advertise they provide reflexology services, but actually engage in various illegal activities. This Ordinance IS NOT intended to discourage legitimate reflexologists or reflexology businesses from providing their services in the City of Altoona. The purpose of this Ordinance is to identify and address businesses that engage in the practice of reflexology without a license and/or are involved in illegal activities. Businesses providing reflexology yet conducting various types of illegal activity are harmful to the Altoona community and the reflexology profession. The implementation of this ordinance will better enable the City of Altoona to proactively screen, monitor and remove businesses that are engaged in illegal activity.

125.02 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.

1. "License" means 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 Altoona.

2. "Massage Therapy Business" means any place of business wherein any of the treatments, techniques, or methods of treatment referred to in subsection 5 are administered, practiced, used, given or applied.
3. "Massage Therapist" means a person licensed to practice the health care service of the healing art of massage therapy under Iowa Code, Chapter 152C.
4. "Massage Patron" means any person who receives, or pays to receive, a massage or massage services from a massage therapist for value.
5. "Massage Therapy" means 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.
6. "Reflexology Business" means a place of business where only "reflexology" is practiced or administered. Reflexology business does not mean a massage therapy business where licensed massage therapists perform or administer reflexology.
7. "Reflexologist" means a person who performs reflexology.
8. "Reflexology Patron" means any person who receives, or pays to receive reflexology services from a reflexologist for value.
9. "Reflexology" means 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.

125.03 LICENSE REQUIRED.

1. No person shall operate a massage therapy or reflexology business, either exclusively or in connection with another business, without being licensed by the City of Altoona as provided in this chapter.
2. If a business is operating as a massage therapy business as defined in this chapter and reflexology services are being provided by a licensed massage therapist, the business falls under the provisions of a massage therapy business under this chapter, and does not have to obtain a separate reflexology business license.

125.04 LICENSE FEE.

1. New Massage Therapy and Reflexology Businesses to Altoona.

A. The initial license fee for a new massage therapy or reflexology business to the City of Altoona is \$75.00. There is an additional fee of \$25 for each person performing massage therapy or reflexology employed at the business. The additional fee will apply to a maximum of three additional employees performing massage therapy or reflexology at the business or a maximum license fee of \$150. The license fee and additional fees shall be paid when the application is filed.

B. 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 Altoona Police Department, to confirm business ownership, business name, service(s) provided and accurate and up-to-date state licenses for the employees performing message therapy and reflexology.

2. Existing Massage Therapy and Reflexology Businesses within the City of Altoona.

A. If an application properly submitted is approved, and the massage therapy or reflexology business remains in continuous operation, renewal fees for a massage therapy or reflexology business license will be waived. A massage therapy or reflexology business grandfathered in under this section will be required to pay a \$25 fee for each additional employee not included in their original application (up to a maximum fee of \$75). The business will be required to go through the annual review process.

3. 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.

4. How Renewal Fee Determined. The Altoona Police Department will track personnel time costs related to the licensing program to quantify those costs and to evaluate program effectiveness.

5. During the twelve (12) month licensed period, the massage therapy or reflexology businesses will be required to notify the Altoona Police Department of changes in massage therapist or reflexology staffing and/or business manager.

125.05 APPLICATION.

Application for a Massage Therapy or Reflexology Business License shall be made on forms provided by the Altoona Police Department. The application must be submitted to the Altoona Police Department within 60 days of the date this Ordinance becoming effective and before opening a massage therapy or reflexology business, whichever is earlier. The application shall include the most current and updated information as requested below:

1. The business name, 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;

2. The names, ages, and addresses of the applicant, owner, manager and all employees who are or will be employed or present on the premises to perform massage therapy or reflexology. This includes all other persons who work on the business premises whether employees or independent contractors of the business along with a description of the work performed;

3. Dates and locations of other places the applicant has owned or operated as a massage therapy or reflexology business;

4. 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 or reflexology have been arrested, charged, or convicted, excluding traffic violations;

5. A statement as to whether the applicant, owner, manager, or any person employed by the applicant has had any license or permit to perform massage therapy or reflexology denied, revoked or suspended in any city, state, county, or any country and the reason for the denial, revocation or suspension;
6. A government issued photo identification card of the applicant, owner, manager and all employees or persons present on the premises who are or will be employed to perform massage therapy or reflexology and independent contractors of the business to verify and confirm identity of individuals referenced in subparagraph 2 above;
7. Such other information as the Chief of Police or designee 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.
8. Insurance. Any application for a license shall be accompanied by proof of insurance executed by an insurance company authorized to do business in the state of Iowa, in the amount of two-million dollars per occurrence, six- million dollars per policy year. All insurance policies hereunder shall provide for at least thirty (30) days prior notice to the Police Department before a cancellation thereof is effective and shall continue to provide coverage as to all matters arising during the term of the insurance policy whether or not later cancelled.
9. 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.

125.06 GRANTING OR DENIAL OF LICENSE.

Prior to opening or operating any massage therapy or reflexology business within the City of Altoona, said proposed business shall obtain a business license from the City of Altoona. Business license applications shall be reviewed by the Chief of Police or designee, who after considering all of the information provided and obtained in the background check shall either grant or deny the license.

125.07 CONDITIONS GOVERNING ISSUANCE.

1. No license shall be issued if the applicant or any of its owners, managers, employees, or agents 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.
2. Licenses shall be issued only if the applicant and all of its owners, managers, employees and agents 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.
3. Licenses shall only be issued to applicants who have provided all of the information requested in the application and have cooperated with the Altoona Police Department and other city officials in review of the application.
4. The business license, if issued, shall be displayed on the business premises in a conspicuous public area.

125.08 EXEMPTIONS.

This chapter shall not apply to the following businesses:

1. 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.
2. Massage Therapists who are employed or are contracted to perform massage therapy in a business identified in Section 125.08 (1) (above).
3. 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.
4. 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.
5. Persons giving massage therapy and bodywork to members of their immediate family.
6. 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.
7. 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.
8. Persons incidentally present in this state to provide services as part of an emergency response team working in conjunction with disaster relief officials.

125.09 GROUNDS FOR DENIAL AND REVOCATION OR SUSPENSION.

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

1. 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.
2. If the licensee solicits or advertises to offer services that are a violation of this chapter.
3. 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.
4. If there is fraud or deception involved in the license application.

5. 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 of Altoona Ordinances.
6. If the licensee has, in the past, engaged in willful disregard for health codes and regulations.
7. If the applicant fails to provide all the information and certificates required by this chapter.
8. If the licensee permits an unlicensed individual(s) to conduct massage therapy or permits an undocumented individual to conduct reflexology services at the licensee's premises.
9. If the licensee refuses to permit any authorized police officers or authorized city, county, or state governmental official to inspect the premises, operations, each person's government ID found to be practicing massage therapy, and each person's government ID that is found to be practicing reflexology.
10. If the licensee is found to be violating provisions of this chapter or the Iowa Code.
11. If the business promotes its services on websites that are known to advertise services that are illegal.
12. If the applicant or licensee is not complying with or has a history of violations of sex crimes 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 the laws and ordinances that might adversely impact public health or safety as determined by the Chief of Police or designee.
13. If the licensee provided incomplete or inaccurate information on the application.

125.10 APPEAL PROCESS.

1. 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 or designee within ten (10) 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.
2. Within ten (10) 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 or designee. Said hearing shall be informal and the applicant may present any oral or written testimony the City Administrator deems pertinent.
3. Within ten (10) days from the hearing held pursuant to subparagraph 2, the City Administrator will provide written findings and decision to the applicant.
4. 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.

125.11 RESTRICTION AND REGULATIONS.

1. Compliance with law. The licensee and persons in its employ shall comply with all applicable regulations and laws of the City of Altoona and State of Iowa.
2. 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 Chief of Police in writing of any change indicating the address of the new manager and the effective date of such change.
3. 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.

125.12 PENALTY.

1. If a massage therapy or reflexology business is not licensed as provided in this chapter, the business premises may be placarded. If the business information that is produced is either inaccurate or incomplete, the business may be placarded.
2. The Chief of Police or designee, shall place in a highly noticeable location a placard stating "Unlicensed Massage Therapy (or Reflexology). It is unlawful to provide or receive massage therapy (or Reflexology) services; and is subject to criminal and/or civil penalty per Altoona Municipal Code 125." This notice shall remain posted until required business information is obtained by the City of Altoona or other legal use has been established.
3. No person shall remove the placard posted pursuant to subsection 2 of this section without the approval of the Chief of Police or designee.
4. No person shall continue to offer or receive reflexology services after a reflexology business has been placarded unless the Police Chief or designee has approved the removal of the placard.
5. 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.

125.13 SEVERABILITY CLAUSE.

If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.