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SEC. 15-1. SHORT TITLE

Chapter 15 of this Code shall be known and may be referred to as the Massage Establishment Ordinance of Scott County, Iowa.

SEC. 15-2. DEFINITIONS.

For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

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- A. "MASSAGE". Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice.
- B. "MESSAGE ESTABLISHMENT." Any establishment having a fixed place of business where any person, engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in SEC. 15-2 (A or (D)). Any establishment engaged in or carrying on, or permitting any combination of massage and bath house shall be deemed a massage establishment.
- C. "MASSEUR OR MASSEUSE". Any person including a trainee, who, for any consideration whatsoever, engages in the practice of massage as herein defined.
- D. "PUBLIC BATH HOUSE". Any place, including a private club or organization, wherein any person engages in, conducts or carries on, the business of giving or furnishing Russian, Finnish, Swedish, hot air, vapor, electric cabinet, steam, mineral, sweat, salt, Japanese, sauna, fomentation or electric baths or baths of any kind whatever, excluding ordinary tub baths where an attendant is not used or required.
- E. "PERSON". Any individual, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form of character.
- F. "EMPLOYEE". Any and all persons, other than the masseurs and masseuses, who render any service to the licensee, who receive compensation directly from the licensee, and who have no physical contact with the customers or clients in the conduct of the business.
- G. "INSPECTOR". Scott County Health Inspector, Scott County Zoning and Building Inspector, the Sheriff or any of the above departments' authorized representatives.
- H. "ACCREDITED SCHOOL". Any school which furnishes a certified statement of courses offered, including anatomy and physiology, and is accredited by a state, district or other unit of educational accreditation, which provides for not less than one thousand (1000) hours of instruction, which shall require at least one (1) school year and shall furnish a certificate or diploma of successful completion of such course of study or learning.
- I. "LICENSEE". The operator of a massage establishment.

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SEC. 15-3. LICENSES

It shall be unlawful for any person:

- A. To engage in, conduct, or carry on or permit to be engaged in, conducted or carried out, in or apart from any premises in the unincorporated areas of the County, the operation of a massage establishment as herein defined, without first having obtained a license from the Office of the Administrator to do so.
- B. To engage in, conduct, or carry on in the County the practice of massage as herein defined without first having obtained a license from the Office of the Administrator as a Masseur or Masseur.
- C. As an operator of a massage establishment, to permit any person to act as a masseur or masseuse unless such person is duly licensed as required in this Chapter.

SEC. 15-4. EXEMPTIONS

- A. No license shall be required under this Chapter for any establishment which is a hospital or health care facility licensed by the State of Iowa nor for the office or clinic of any duly licensed physician and surgeon, podiatrist, osteopath, osteopathic physician and surgeon, osteopath or physical therapist. No license shall be required of a duly licensed barber or cosmetologist extending massage to the face, head or shoulders.
- B. No license shall be required under this section by any person duly licensed by the State of Iowa under the Provisions of Chapter 147 of the 1989 Code of Iowa as the same may be amended.
- C. No license shall be required under this section by trainers of any amateur, semiprofessional or professional athlete or athletic team or facilities used for such purposes.
- D. No license shall be required under this chapter by any person who has been a masseuse or masseur having graduated from an approved school of massage teaching principles of anatomy, physiology and hygiene and who has practiced as such in the unincorporated area of the County at the same location for at least one (1) year immediately prior to the adoption of this Chapter (or its predecessor ordinance) for such facilities used by such person.

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SEC. 15-5. FILING AND FEE PROVISIONS

Every applicant for a license to maintain, operate or conduct a massage establishment shall file an application with the Office of the Administrator upon a form provided by said Office of the Administrator and pay a filing fee of one hundred dollars (\$100.00) which shall not be refundable.

SEC. 15-6. APPLICATION FOR MASSAGE ESTABLISHMENT LICENSE

The application for a license to operate a massage establishment shall set forth the exact nature of the massage to be administered, the proposed place of business and facilities therefore, and the names and addresses of each applicant.

In addition to the foregoing, any applicant for a license shall furnish the following information:

- A. The two (2) previous addresses immediately prior to the present address of the applicant.
- B. Written proof that the applicant is at least eighteen (18) years of age.
- C. Applicant's height, weight, color of eyes and hair.
- D. Two (2) portrait photographs of applicant at least two inches by two inches (2" x 2").
- E. Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of the application.
- F. The massage or similar business license history of the applicant; whether such person, in previously operating in this or another county or state under license, has had such license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action or suspension or revocation.
- G. All criminal convictions except minor traffic violations.
- H. Applicant must furnish a diploma or certificate of graduation from an accredited school or other institution of learning wherein the method, profession and work of massage is taught, provided, however, that if the applicant will have no physical contact with customers or clients he need not possess such diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage is taught.
- I. Such other identification and information necessary to discover the truth of the

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matters herein before specified as required to be set forth in the application.

- J. Nothing contained herein shall be construed to deny to the Office of the Administrator the right to take the fingerprints and additional photographs of the applicant, nor shall anything contained herein be construed to deny the right of said Office of the Administrator to confirm the height and weight of the applicant.
- K. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation together with the names and residence addresses of each of the officers, directors, and each stockholder holding more than ten percent (10%) of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and the residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this Section pertaining to a corporate applicant apply.

SEC. 15-7. MASSEUR OR MASSEUSE LICENSE

Any person who engages in the practice of massage as herein defined shall file an application with the Office of the Administrator upon a form provided by said Office of the Administrator and shall pay a filing fee of twenty-five dollars (\$25.00) which shall not be refundable.

SEC. 15-8. OPERATOR OF MESSAGE ESTABLISHMENT - EXCEPTION A

A diploma from an accredited school as defined herein will not be required by the operator of a massage establishment or for any employee where such operator or employee does not give a massage as defined herein.

SEC. 15-9. APPLICATION FORM FOR MASSEUR OR MASSEUSE

The application for a masseur or masseuse license shall contain the following:

- A. Name and residence address.
- B. Social security number and driver's license number, if any.
- C. Applicant's weight, height, color of hair and eyes.
- D. Written evidence that the applicant is at least eighteen (18) years of age.
- E. Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application.

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- F. Whether such person has ever been convicted of any crime, except misdemeanor traffic violation. If any person mentioned in this subsection has been so convicted, a statement must be made giving the place and court in which such conviction was had, the specific charge under which the conviction was obtained and the sentence imposed as a result of such conviction.
- G. The name and address of the accredited school attended, the date attended and a copy of the diploma or certificate of graduation awarded indicating the applicant has completed not less than one hundred fifty (150) hours of instruction.
- H. The Office of the Administrator shall have the right to direct the Sheriff to take fingerprints and a photograph of the applicant and the right to confirm the information submitted.

SEC. 15-10. VERIFICATION OF APPLICATION

Every application for a license under this chapter shall be verified by the oath of the applicant.

SEC. 15-11. FACILITIES NECESSARY

No license to conduct a massage establishment shall be issued unless an inspection by the Inspector reveals that the establishment complies with each of the following minimum requirements:

- A. Construction of rooms used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproofed materials and shall be installed in accordance with the County Building Code. Plumbing fixtures shall be installed in accordance with the County Plumbing Code.
 - (1) For toilet rooms, toilet room vestibules and rooms containing bathtubs, there shall be a waterproof floor covering, which will be carried up all walls to a height of at least six (6) feet with a smooth, non-absorbent finish surface of keene cement, tile, or similar material.
 - (2) Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the Inspector.
 - (3) Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sewer. (Exception: Dry heat rooms with wooden floors need not be provided with pitched floors and floor drains).
 - (4) A source of hot water must be available within the immediate vicinity of

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dry and wet heat rooms to facilitate cleaning.

- B. Toilet facilities shall be provided in convenient locations. When five (5) or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. All toilet rooms shall be equipped with self-closing doors opening in the direction of ingress to the toilet rooms. Toilets shall be designated as to the sex accommodated therein. Toilet rooms and facilities shall be designed according to accepted Federal standards, to accommodate the handicapped.
- C. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or the vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.
- D. All portions of massage establishments and baths shall be provided with adequate light and ventilation by means of windows or skylights with an area of not less than one-eighth (1/8) of the total floor area, or shall be provided with approved artificial light and a mechanical operating ventilating system. When windows or skylights are used for ventilation, at least one-half (1/2) of the total required window area shall be operable.

To allow for adequate ventilation, cubicles, rooms, and areas provided for patrons' use not served directly by a required window, skylight, or mechanical system of ventilation shall be constructed so that the height of partitions does not exceed seventy-five percent (75%) of the floor-to-ceiling height of the area in which they are located.

- E. All electrical equipment shall be installed in accordance with the requirements of the County Electrical Code. All mechanical equipment shall be installed in accordance with the requirements of the County Mechanical Code.

SEC. 15-12. OPERATING REQUIREMENTS

- A. Every portion of a massage establishment, including appliances, apparatus, and personnel shall be kept clean and operated in a sanitary condition.
- B. All employees shall be clean and shall wear suitable clean outer garments whose use is restricted to the massage establishment. If male and female patrons are to be served simultaneously, in a massage establishment, a separate massage room or rooms and separate dressing facilities shall be provided for male and female patrons. Where only one patron at a time is using a massage room, it may also at such time be used as a dressing facility for such patron.

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Further, in public bath houses if male and female patrons are to be served simultaneously, separate rooms shall be provided for male and female patrons.

- C. All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity which shall be laundered after each use thereof and stored in approved, sanitary manner. No towels or sheets shall be laundered or dried in any massage establishment unless such establishment is provided with approved laundry facilities for such laundry and drying. Approved receptacles shall be provided for the storage of soiled linens and paper towels.
- D. Wet and dry heat rooms, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.
- E. If the massage establishment is in any building used for residential or sleeping purposes, any room in which the services enumerated in Section 15-2 are provided, is to be used for massage and shall not be used for residential or sleeping purposes; provided, however, that the Inspector may allow such room to be used for residential or sleeping purposes if he finds that the health and safety of the patrons of such establishment will not be jeopardized.
- F. No massage establishment granted a license under the provision of this chapter shall place, publish, or distribute or cause to be placed, published, or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than those services as described in Section 15-2 A, nor shall any massage establishment indicate in the text of such advertising that any service is available other than those services as described in Section 15-2 A.
- G. No service enumerated in Section 15-2 A may be carried on within any cubicle, room, booth or any area within a massage establishment, which is fitted with a door capable of being locked.
- H. The premises shall have adequate equipment for disinfecting and sterilizing non-disposal instruments and materials used in administering massages. Such non-disposal instruments and materials shall be disinfected after use on each person.
- I. Clean linen and towels shall be provided for each massage patron. No common use of towels or linens shall be permitted.
- J. All massage tables, bathtubs, shower stall, steam or bath areas and floors shall have surfaces which may be readily disinfected.

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- K. Oils, creams, lotions or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.
- L. Eating in the massage work areas shall not be permitted.
- M. Animals, except for seeing-eye dogs, shall not be permitted in the massage work areas.
- N. No massage technician shall administer a massage if such massage technician knows or should know that he or she is not free of any contagious or communicable disease.
- O. No massage technician shall administer a massage to a patron exhibiting any skin fungus, skin infection, skin inflammation, or skin eruption; provided that a physician or osteopathic physician duly licensed by the State of Iowa may certify that such person may be safely massaged prescribing the conditions thereof.
- P. Each massage technician shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage to each patron.

SEC. 15-13. REFERRAL OF APPLICATION TO OTHER DEPARTMENTS

The Office of the Administrator, upon receiving an application for a massage establishment license shall refer the application to the County Health Department and the County Zoning and Building Department, which departments shall inspect the premises proposed to be operated as a massage establishment and shall make written recommendations to the Office of the Administrator concerning compliance with the Codes that they administer. The Office of the Administrator shall also refer the application to the Sheriff's Department.

SEC. 15-14. ISSUANCE OF LICENSE FOR A MESSAGE ESTABLISHMENT

The Office of the Administrator may issue a license if all requirements for a massage establishment described in this chapter are met and may issue a license to all persons who apply to perform massage services unless it finds:

- A. That the operation as proposed by the applicant, if permitted, would not have complied with all applicable laws including but not limited to the Building, Zoning, or regulations adopted by the County Department of Health.
- B. That the applicant and any other person who will be directly engaged in the management and operation of a massage establishment has been convicted of an offense outside of the State of Iowa that would have constituted any of the following offenses if committed within the State of Iowa:

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- (1) An offense involving the use of force and violence upon the person of another that amounts to a felony;
- (2) An offense involving sexual misconduct with children;
- (3) An offense as defined in Chapter 709, or Sections 725.1, 725.2, 725.3, 725.4 or 726.2 of the 1989 Code of Iowa.

The Office of the Administrator may issue a permit to any person convicted of any of the crimes described in Subsections B(1), B(2) or B(3) of this Section if it finds that such conviction occurred at least five (5) years prior to the date of the application and the applicant has had no subsequent felony convictions of any nature and no subsequent misdemeanor convictions for crimes mentioned in this Section.

SEC. 15-15. ISSUANCE OF MASSEUR OR MASSEUSE LICENSE

The Office of the Administrator may issue a masseur or masseuse license unless it finds:

- A. That the applicant has been convicted of any of the following offenses or convicted of an offense outside of the State of Iowa that would have constituted any of the following offenses if committed within the State of Iowa:
 - (1) An offense involving the use of force and violence on the person of another that amounts to a felony;
 - (2) An offense involving sexual misconduct with children;
 - (3) An offense as defined under Chapter 709 or Sections 725.1, 725.2, 725.3, 725.4 or 726.2 of the 1989 Code of Iowa; provided however, that the Office of the Administrator may issue a permit to any person convicted of any crimes described in Subsection A(1), A(2) or A(3) of this Section if it finds that such conviction occurred at least five (5) years prior to the date of application and the applicant has had no subsequent felony convictions of any nature and no subsequent misdemeanor convictions for crimes mentioned in this Section.
- B. That the applicant has not obtained the health certificate required in this Chapter.

SEC. 15-16. HEALTH CERTIFICATE

- A. All persons who desire to perform the services of massage technician at a massage establishment shall first undergo a physical examination for contagious and communicable diseases, which shall include a recognized blood test for

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syphilis, a culture for gonorrhea, a chest X-ray which is to be made and interpreted by a trained radiologist, and such other laboratory tests, as may be necessitated by the above examination, and shall furnish to the Office of the Administrator a health certificate based upon and issued within thirty (30) days of such examination, signed by a physician, duly licensed by the State of Iowa and stating that the person examined is either free from any contagious or communicable disease or incapable of communicating any of such diseases to others. Such persons shall undergo the physical examination referred to above and submit to the Office of the Administrator the health certificate required herein within five (5) days of the issuance of the license and at least once every six (6) months thereafter.

The Office of the Administrator, when it has cause to believe that the massage technician is capable of communicating any contagious disease to others, may at any time require any immediate physical examination of any such person.

Upon presentation to and approval by the Office of the Administrator of the certificate required herein, the Office of the Administrator shall issue a health card to the applicant, containing among other items the name of the holder, the date of expiration and a statement that the holder has complied with the provisions of this section. The Office of the Administrator shall refuse to issue such card if the applicant has either failed to furnish the certificate required herein or is not free from any contagious or communicable disease.

The employer of any such person shall require all such persons to undergo the examination and obtain the certificate provided by this section, shall register at the place of employment the name and date of employment of each employee, and shall have the health cards and registration of all employees available for inspection at all reasonable times.

SEC. 15-17. OPERATOR TO MAINTAIN REGISTER OF EMPLOYEES

The operator of a massage establishment must maintain a register of all persons employed as masseurs or masseuses and their license numbers. Persons under the age of eighteen are prohibited upon the premises.

SEC. 15-18. IDENTIFICATION NAME PLATE

The Office of the Administrator shall provide each masseur and masseuse granted a license with an identification name plate which shall contain a photograph of the masseur or masseuse and the name and license number assigned to said masseur or masseuse, which must be worn on the front of the outermost garment at all times during the hours of operation of any establishment granted a permit pursuant to this Chapter.

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SEC. 15-19. REVOCATION OR SUSPENSION OF LICENSE

Any license issued for a massage establishment may be revoked or suspended by the Board of Supervisors after a hearing for good cause, or in any case where any of the provisions of this chapter are violated or where any employee of the licensee including a masseur or masseuse, is engaged in any conduct which violates any of the State or local laws or ordinances at licensee's place of business and the licensee has actual or constructive knowledge of such violations or the licensee should have actual or constructive knowledge by due diligence, or in any case, where the licensee refuses to permit any duly authorized Deputy Sheriff or Inspector of Scott County to inspect the premises or the operations therein. Such license may also be revoked or suspended by the Board of Supervisors after hearing, upon the recommendations of the Health Inspector that such business is being managed, conducted or maintained without regard for the public health or health of patrons or customers or without due regard to proper sanitation and hygiene.

SEC. 15-20. REVOCATION OF MASSEUR OR MASSEUSE LICENSE

A masseur or masseuse license issued by the Office of the Administrator to any employee may be revoked or suspended after a public hearing on any of the following grounds:

- A. Violation of any of the provisions of this Chapter.
- B. Violation of any section of Chapter 709 or Sections 725.1, 725.2, 725.3, 725.4 or 726.2 of the 1989 Code of Iowa.

SEC. 15-21. EMPLOYMENT OF PERSONS UNDER THE AGE OF EIGHTEEN PROHIBITED

It shall be unlawful for any owner, proprietor, manager or other person in charge of any massage establishment to employ any person who is not at least eighteen (18) years of age.

SEC. 15-22. MESSAGE ESTABLISHMENTS -- UNLAWFUL ACTS

- A. It shall be unlawful for any person, in a massage establishment, to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital part of any other person.
- B. It shall be unlawful for any person, in a massage establishment, to expose his or her sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person, in a massage establishment to expose the sexual or genital parts, or any portion thereof, of any other person.

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- C. It shall be unlawful for any person, while in the presence of any other person in a massage establishment, to fail to conceal with a fully opaque covering, the sexual or genital parts of his or her body.
- D. It shall be unlawful for any person owning, operating or managing a massage establishment, knowingly to cause, allow, or permit in or about such massage establishment, any agent, employee, or any other person under his control or supervision to perform such acts prohibited in Subsections A, B or C of this section.
- E. For the purposes of this section, the following words shall have the meaning assigned below:
 - Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.
- F. Any person violating the provisions of this section shall, upon conviction, be punished as provided in Section 15-28 of this Chapter.
- G. Every person owning, operating or managing a massage establishment shall post a copy of this section in a conspicuous place in the massage establishment so that it may be readily seen by persons entering the premises.

SEC. 15-23. SALE OR TRANSFER

Upon sale, transfer, change of ownership, or relocation of a massage establishment, the permit and license therefor shall be null and void.

SEC. 15-24. NAME AND PLACE OF BUSINESS - CHANGE OF LOCATION

No person granted a license pursuant to this Chapter shall operate under any name or conduct his business under any designation for any location not specified in his license, and there shall be required a license for each different location address identified in the application required under Section 15-6 of this Chapter.

SEC. 15-25. RENEWALS

Each licensee or masseur or masseuse shall apply for a license annually by application as if for an original license. There shall be no automatic renewal. Such application shall be filed and the fee paid no less than thirty (30) days prior to the anniversary date of the issuance of the current license. Each license issued under this Chapter shall expire at the end of one (1) year from its issuance.

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SEC. 15-26. DISPLAY OF LICENSE

Every person to whom or for whom a massage establishment license shall have been granted pursuant to the provisions of this Chapter shall display said license in a conspicuous place within the massage establishment so that the same may be readily seen by persons entering the premises.

SEC. 15-27. EMPLOYMENT OF MASSEURS AND MASSEUSES

It shall be the responsibility of the licensee for the massage establishment of the employer of any persons purporting to act as masseurs and masseuses, to insure that each person employed as a masseur or masseuse shall first have obtained a valid license pursuant to this Chapter.

SEC. 15-28. VIOLATION AND PENALTY

Every person, except those persons who are specifically exempted by this Chapter whether acting as a mere helper for the owner, employee or operator, or acting as a participant or worker in any way, who gives massages or conducts a massage establishment or who in conjunction with the massage establishment gives or administers, or practices the giving or administering of baths as defined herein or any of the services defined in Section 15-2 (D) of this Chapter without first obtaining a license and paying a license fee so to do from the County or who shall violate any provisions of this Chapter shall be guilty of a misdemeanor punishable by a fine not to exceed one hundred dollars (\$100.00) or imprisonment in the County Jail for a period not to exceed thirty (30) days.