

AN ORDINANCE REVISING ARTICLE 18 OF THE CODE OF THE CITY OF PEORIA
APPROVING THE REGULATION OF BODYWORK ESTABLISHMENTS

WHEREAS, the City of Peoria is a home rule unit of government pursuant to Article VII, Section 6 of the Constitution of the State of Illinois 1970, and may exercise any power and perform any function pertaining to its government and affairs including the regulation of the licensing of bodywork establishments within its corporate limits; and

WHEREAS, prior to January 18, 2005, the Code of the City of Peoria contained Article VII, Sections 18-231 through 18-295 of Chapter 18 regulating licensing for massage establishments; and

WHEREAS, on January 18, 2005, pursuant to ordinance No. 15,734, the City of Peoria repealed Article VII, Sections 18-231 through 18-295 due to the State of Illinois adopting the Massage Licensing Act, 220 ILCS 57/1 *et. seq.*; and

WHEREAS, massage therapists are regulated exclusively by the State pursuant to the Massage Licensing Act, but massage establishments and establishments that perform bodywork are not regulated by the State; and

WHEREAS, throughout the City, there are some establishments that purport to provide legitimate massage services but actually provide illegal sexual activity such that there is a need for local regulation to prevent said activity within the City; and

WHEREAS, Illinois Compiled Statutes, 225 ILCS 57/25(g) exempts practitioners of Asian bodywork approaches” from the licensing requirements of the Illinois Massage Licensing Act if the practitioner is a member of the American Organization of Bodywork Therapies of Asian as a certified practitioner, or if approved by an Asian bodywork organization based upon a minimum level of training, demonstration of competency, and adhere to ethical standards set by their governing body; and

WHEREAS, the City, based upon meetings with representatives of the massage industry and social service agencies representing victims of human trafficking, law enforcement investigations and materials presented to its Corporate Authorities, has concluded that there is evidence that the Asian bodywork approach exemption set forth in 225 ILCS 57/25(g) is being used, in some instances, by businesses and persons who are not licensed massage therapists or bona fide practitioners of Asian bodywork approaches but for the purpose of engaging in unlawful sexual activities for consideration; and

WHEREAS, the City Council has determined that the language proposed in this Ordinance will reduce the probability that establishments purporting to house legitimate bodywork will be used to promote illegal sexual activities while protecting legitimate, lawful providers of such a bodywork approach; and

WHEREAS, this ordinance is not intended to regulate the licensing of massage therapy or

massage therapist or to encroach on the State's exclusive authority to regulate those activities; and

WHEREAS, it is in the best interests of the public for the City to regulate bodywork establishments, as defined within this Ordinance, to prevent such establishments from being the sites of violations of the law, rules regulations and/or ordinances of the City and State for the safety and welfare of the general public.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS, as follows:

Section 1: Chapter 18, Article VII of the Code of the City of Peoria is hereby revised in its entirety by adding the following underlined language:

ARTICLE VII. – BODYWORK ESTABLISHMENTS

§ 18-231 - Definitions.

For the purpose of this Article, the following words and phrases shall have the meanings ascribed to them in this section.

Act: The Illinois Massage License Act (225 ILCS 57/1 et. seq.).

Advertise: The issuance of any card, sign, or device to any person; the causing, permitting, or allowing of any sign or marking on or in any building, vehicle, or structure; advertising in any newspaper, magazine, television, radio, internet streaming, blog, chat room, website or social media; any listing or advertising in any directory; or commercials broadcast by any means and any similar or equivalent communications of a person, business or establishment.

Applicant: Any person or entity seeking a bodywork establishment license. If the applicant is a sole proprietorship, the information sought to be provided shall be for the individual owner; if a partnership, by each general and each limited partner; if a joint venture, by each joint venturer; if a corporation, by each officer and director, and unless the corporation's stock is publicly traded, by each shareholder owning or holding more than five percent (5%) of the outstanding stock in said corporation; if a limited liability company, by each manager and by each member owning or holding more than a five percent (5%) membership interest; if an entity is made up of one or more subentities, then the foregoing information shall be provided for each subentity. It shall also include the business manager or other person principally in charge of the operation of the business.

Bodywork Establishment: Any commercial, fixed place of business where any person, firm, association, or corporation advertises, offers, engages in or carries on, or permits to be offered, engaged in or carried on, bodywork services to patrons in exchange for compensation, excluding home based bodywork providers.

Bodywork or Bodywork Services: Any method of applying pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, touching or stimulating, the external parts of the body, by another individual, with the hands, any body part, or with the aid of any mechanical or electrical apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments or similar preparations, for compensation. The definition of bodywork for purposes of this chapter is intentionally not the same and is broader than the definition of massage in the Act, and is intended to cover massage, bodywork services provided by bodywork practitioners and similar services that fit the definition, regardless of what the services or the person providing the services is called, unless expressly excluded by this Article.

Bodywork Provider: Any person who provides bodywork services, including licensed massage therapists.

Compensation: The payment, loan, advance, donation, contribution, deposit, or gift of money or anything of value.

Conviction: A plea of guilty or *nolo contendere*, finding of guilty, stipulation to such a finding, jury verdict or entry of judgment by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge or first offender probation under the laws of any jurisdiction of the United States.

Employee: Any person over eighteen (18) years of age who renders any service in connection with operation of a bodywork establishment and receives compensation from the owner or operation of the establishment or from its patrons.

Licensee: The owner and/or operator of a bodywork establishment.

Massage or Massage Services or Massage Therapy: As provided in the Act, a system of structured palpation or movement of the soft tissue of the body. The system may include, but is not limited to, techniques such as effleurage or stroking and gliding, petrissage or kneading, tapotement or percussion, friction, vibration, compression, and stretching activities as they pertain to massage therapy. These techniques may be applied by a licensed massage therapist with or without the aid of lubricants, salt or herbal preparations, hydromassage, thermal massage, or a massage device that mimics or enhances the actions possible by human hands. The purpose of the practice of massage, as licensed under this ordinance, is to enhance the general health and well-being of the mind and body of the patron. "Massage" does not include the diagnosis of a specific pathology. "Massage" does not include those acts of physical therapy or therapeutic or corrective measures that are permitted and licensed by the Illinois Occupational Therapy Practices Act, 335 ILCS 75/1, *et. seq.*; the Illinois Physical Therapy Act, 225 ILCS 90/1, *et. seq.*; the Medical Practice Act, 225 ILCS 60/1 *et. seq.*; or the Illinois Naprapathic Practices Act, 225 ILCS 63/1 *et. seq.*;

Massage Therapist: Any person who is licensed under the Act and administers massage for

compensation.

Owner: An individual, if a sole proprietorship, or any of the following individuals who have a five percent (5%) or more interest in a business and/or are entitled to share in five percent (5%) or more of the profits of the business, including, but not necessarily limited to, general partners, shareholders and members, and including the individuals who have any ownership interest in any partnership, corporation, LLC or other entity that is a partner, member or shareholder of the entity in which name a business is conducted. An owner is intended to mean individuals, only, and if a business is owned by another entity, the owners for that business, for purposes of this chapter, mean the ultimate individuals who are the owners; if a business has successive entities in ownership, the owners for purposes of this chapter shall be the individuals at the end of the chain of ownership.

Patron: Any person who receives bodywork services under such circumstances that are reasonably expected that he or she would pay money or give any other form of compensation therefor.

Permit: For purposes of this article, a person permits something if the person knows or by due diligence should have known of the conduct and does not stop or prevent the conduct from happening.

Person: Any individual, partnership, firm, association, limited liability company, joint stock company, corporation or combination of individuals of whatever form or character.

Recognized School: Any school or educational institution licensed to do business as a school or educational institution in the state in which it is located, or any school recognized by or approved by or affiliated with the American Massage Therapy Association, the National Certification Board For Therapeutic Massage And Bodywork, or the Federation Of State Massage Therapy Boards, and which has for its purpose the teaching of the theory, method, profession, or work of massage, which school requires a resident course of study before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning.

Sexual or genital area. The male or female genitals, pubic area, anus, or perineum of any person, or the vulva or breasts of a female.

§ 18-232 - License Required.

(A) Bodywork Establishment License Required

No person shall advertise, offer, engage in, conduct or carry on or permit to be advertised, offered, engaged in, conducted or carried on, bodywork services in any establishment, or provide bodywork in return for compensation in any establishment in the City without having first obtained a bodywork establishment licensed issued by the City pursuant to the provisions of this Article for each and every premises used for conducting or providing bodywork services for compensation, with the exception of the following:

1. Physicians, surgeons, chiropractors, osteopaths, podiatrists, naprapaths, occupational therapists or physical therapists who are duly licensed to practice their respective professions pursuant to the Illinois Occupational Therapy Practices Act, 335 ILCS 75/1, et. seq.; the Illinois Physical Therapy Act, 225 ILCS 90/1, et. seq.; the Medical Practice Act, 225 ILCS 60/1 et. seq.; or the Illinois Naprapathic Practices Act, 225 ILCS 63/1 et. seq. and the state-licensed physician assistants, practical nurses and registered nurses acting under their supervision.

2. Athletic trainers for any athletic program of a private or public school, college or university or for any athletic team regularly organized and engaging in competition.

3. Barbers, estheticians and cosmetologists who are duly licensed under the laws of Illinois, except that this exemption shall apply solely to the massaging of the neck, back, face, scalp, hair, hands and feet of the patron for cosmetic or beautifying purposes, and provided that these services are provided to patrons who are fully clothed.

4. Hospitals, sanitariums, nursing homes, assisted living facilities, home health agencies, hospice programs and other such programs defined and licensed by pursuant to Chapter 210 of the Illinois Compiled Statutes.

5. Bodywork provided by massage therapy students enrolled in a recognized school during the course of clinical externships, practicums or community services, provided that such bodywork services are part of the curricular requirements of the recognized school and for which no compensation is received.

6. Home based bodywork practices operated by a person who has a State massage license, providing that the individual is in compliance with the City Development and Zoning Codes pertaining to home occupations.

7. Bodywork services performed at the patron's residence or business.

The burden of proof is on the person who claims and exemption to establish by clear and convincing evidence that the exemption applies.

(B) Application Procedure for a Bodywork Establishment License

Every applicant for a license to maintain, operate, or conduct a bodyworks establishment shall file an application with the City Manager's office upon a form provided by the City.

The City Manager's office shall within five days of the receipt of an application for a bodyworks establishment license, forward copies of such application to the Community Development Department, the Fire Department, and the Police Department. These departments shall, within 30 days after receipt of a copy of the application, review and process the application information, as is appropriate relative to each respective department, and make written recommendations to the City Manager's office concerning compliance with the codes, laws and ordinances that said departments administer.

Within 30 days of receipt of the recommendations of the aforesaid departments, the City Manager's office shall notify the applicant that the application is granted, denied, or being held for further investigation. The period of such additional investigation shall not exceed an additional 30 days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, if any, the City Manager's office shall advise the applicant in writing whether the application is granted or denied.

Whenever an application is denied, or held for further investigation, the head of the department requesting said denial or further investigation shall advise the applicant in writing of the reasons for such action.

The decision of any Department Head with regard to the denial of any license under this Article shall be reviewable by the City Manager, upon the written request of the applicant filed with the City Manager within ten (10) days of such denial. The City Manager, shall review evidence previously submitted to the City, the reports of the various Department Heads, and any additional evidence presented with the written request for review. The decision of the City Manager, upon such review shall be a final appealable order.

The failure or refusal of the applicant to promptly give any information relevant to the investigation of the application, or the submission of false, misleading or incomplete information on the application, or the refusal or failure of applicant to appear at any reasonable time and place for examination under oath regarding said application, or the refusal of applicant, to submit to or cooperate with any inspection required under this Code, shall be grounds for denial of the application.

(C) Application for a Bodywork Establishment License

An application shall be filed for every bodywork establishment in the City that is required to obtain a license in the form provided by the City made under oath with the payment of a nonrefundable annual license fee, as set forth in Section E(3)-(4)) of this Article.

1. Business. The application shall include the following information and documentation:
 - a. The name of the business, all assumed names under which the business is to be conducted and the employer identification number of the business providing bodywork services.
 - b. The federal employer identification number (FEIN) and the State of Illinois business tax number (IBT) of the business.

- c. The type of entity, i.e. sole proprietorship, partnership, corporation, LLC, etc.
 - d. A copy of the records that establish the current the current ownership of any interest in the business of five percent (5%) or greater (such as partners, shareholders, members, and if the legal owner of the business is an entity, a copy of the records that establish the individual owners of the ownership entity, and so on until the records establishing the individual owners at the end of the chain of ownership are established).
 - e. A copy of the business records that establish the persons with current management authority (such as officers, members, managers, general partners, etc.) and supervisory authority.
 - f. Proof that the business and all underlying entities with ownership interest of five percent (5%) or more is in good standing with the State of Illinois (or other state or country) if the business is chartered by the state (such as for corporations, LLCs, limited partnerships, etc.) or other state or country.
 - g. Street addresses and names under which all of the record owners identified pursuant to subsection C(1)(a) of this section have operated any existing or prior business(es) owned or operated within the last five (5) years under the same business entity or entities or any of the owners of the business for which the application is being filed.
 - h. A description of the services to be provided on the premises and whether any bodywork services provided or to be provided as defined in this chapter are a primary or ancillary activity that will take place on the premises. Bodywork services are the primary business if fifty percent (50%) or greater of the revenue generated from sales of service or products on the premises are derived from bodywork services.
 - i. All telephone numbers, websites and internet addresses of the business and sample copy of the advertising of the bodywork services being provided, if the business is already in operation.
 - j. A statement whether the business or any affiliated or predecessor business has ever had a business license of any kind denied, suspended or revoked and the reasons therefor and the business activity or occupation of the applicant subsequent to each suspension, revocation or denial.
2. Premises. The application shall include the following information and documentation for the premises for which a bodywork license is sought:
- a. The street address, mailing address (if different) and all telephone numbers for the business where the bodywork services are or will be conducted.
 - b. If the premises is leased:
 - i. A copy of the lease, and any subleases, assignments and acceptances of such subleases or assignments in effect.
 - ii. The name, address and phone number of the owner of the premises.

- iii. The name, address and phone number of the tenant of the premises, if the tenant is other than the applicant or the business that is or will be operating in the premises in which bodywork services will be provided.
 - iv. The name, address and phone number of the landlord of the premises, if the landlord is other than the owner of the premises in which the bodywork services will be provided.
 - v. Signed authorization by the owner, landlord and/or tenant of the premises for the application to be filed, acknowledging that the owner, landlord and/or tenant has a copy of the application to be filed, has read the contents of it and agrees with the representations to be made by the owner and/or landlord.
 - c. A drawing or floor plan of the premises designating each room by its purpose and the activity that will take place in each room.
3. Business Owners And Supervisors: The applications shall include the following information and documentation of the business Owners, and all directors, officers, managers and persons with supervisory authority:
- a. Name, gender, residential address and phone number(s), facsimile number(s), e-mail address(es), and other contact information.
 - b. Date of birth, place of birth, driver's license number and social security number.
 - c. The previous two (2) residential addresses.
 - d. Photo identification issued by the federal or state government, or a subdivision or agency thereof.
 - e. A complete list of any aliases.
 - f. The business, occupation, and employment history for the past three (3) years.
 - g. A statement whether the owners or any directors, officers, managers or persons with supervisory authority have ever owned, been involved with or worked for a business that has had a business license of any kind denied, suspended or revoked, and the reasons therefor.
 - h. A statement whether the owner or any director, officer, manager, person with supervisory authority and/or any person who has performed or will perform bodywork services to the applicant's knowledge has ever been convicted of a crime, other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted, including, but not limited to: a) any felony; and b) any misdemeanor, or local ordinance or code violation an essential element of which is: 1) dishonesty, 2) illicit drugs, 3) sexual offenses as defined in 720 Illinois Compiled Statutes 5/11-1 *et. seq.*, 4) the use of violence or force, or that is directly related to the practice of the massage or bodywork or operation of a bodywork establishment.

- i. Proof that the owners and any directors, officers, managers or persons with supervisory authority are at least eighteen (18) years of age.
 - j. Authorization for the police to conduct criminal background checks and take fingerprints for all owners and employees with supervisory authority. If the applicant can produce proof of a current massage therapy license by the State of Illinois for any owner or employee, then the background check and fingerprints are not required.
 - k. The name and address of any other business currently owned or operated by any owner, director, officer, manager or person with supervisory authority.
4. Business Employees And Agents: The applications shall include the following information and documentation of the employees and independent contractors or agents that have been or are intended to be employed to provide massage or bodywork services:
- a. The names, residential addresses and phone numbers.
 - b. Photo identification issued by the federal or state government, or a subdivision or agency thereof.
 - c. A copy of the state issued massage therapy licenses or state or national licenses of certifications by which authority the persons may perform the massage or bodywork or proof of exemption from the requirement of licensing or certification under section 25 of the Act.
 - d. A description of the type of bodywork approach or modality that will be practiced by each employee and each independent contractor or agent who is or will be performing bodywork in the premises.
 - e. Signed consents to fingerprinting and criminal background checks. If the applicant can produce proof of a current massage therapy license by the State of Illinois for any employee or independent contractors or agents, then the criminal background check and fingerprints are not required.

If a change in any information required under this section occurs at any time during a license period, the licensee shall file a statement, executed in the same manner as the application, indicating the nature and effective date of the change. The supplemental statement shall be filed within ten (10) days after the change takes effect.

(D) Issuance of a Bodywork Establishment License

No license shall be issued under this Article if the City shall find:

- 1. That the operation of the bodywork establishment, as proposed by the applicant, would not comply with the applicable laws of the State of Illinois and the City of Peoria, including, but not limited to the planning, housing, building, zoning and fire codes of the City of Peoria; or

2. That the applicant and/or any other person who will be directly or indirectly engaged in the management and operation of a bodywork establishment has been convicted or pled guilty to:
 - a. A felony that occurred within five (5) years prior to the date of application, or of any misdemeanor, an essential element of which is: 1) dishonesty, 2) illicit drugs, 3) sexual offenses as defined in 720 Illinois Compiled Statutes 5/11-1 et. seq., 4) the use of violence or force, or that is directly related to the practice of the massage or bodywork or operation of a bodywork establishment.
 - b. An offense involving sexual misconduct with children.
 - c. Prostitution, soliciting for a prostitute, pimping or other offenses opposed to decency and morality.
 - d. A violation of any provision of this Article.
3. That the applicant has knowingly made false, misleading or fraudulent statements of fact in the license application or in any document required by the City in conjunction with the license application or has knowingly withheld material information.
4. That the operation of the bodywork establishment as proposed by the applicant would violate the provisions of this Article.

(E) Terms of License, Fees and License Renewal

1. The term for licenses issued under this Article is for one year beginning July 1 and ending on June 30.
2. All license fees shall be paid at the time application is made. All applicable license fees and other required fees, including costs of fingerprinting, shall be paid prior to the issuance of any license.
3. The initial license application fee for a bodywork establishment shall be as follows:
 - a. \$250.00 for establishments for which bodywork is the primary service being provided.
 - b. \$100.00 for establishments for which bodywork is not the primary service being provided.
 - c. The actual cost of fingerprinting and backgrounds checks (except that licensed massage therapists shall be excluded from this requirement due to fingerprinting done at the State as a condition of the state license).
4. The annual license renewal fee for a bodywork establishment shall be as follows:
 - a. \$100.00 for establishments for which bodywork is the primary service being provided.
 - b. \$50.00 for establishments for which bodywork is not the primary service being provided.

(F) Display and Transfer of License

Every licensee shall display a valid permit in a conspicuous place within the bodywork establishment so that the same may be readily seen by patrons entering the premises. No permit for the operation of a bodywork establishment shall be transferable.

(G) Sale or Transfer of Establishment

Upon the sale, transfer or relocation of a bodywork establishment, the license therefor shall become immediately null and void, and a new license shall be required if a successor bodywork establishment is intended in the same location. Upon the death or incapacity of the licensee or any colicensee of the bodywork establishment, any heir or beneficiary of a deceased licensee, or any guardian of an heir or beneficiary of a deceased licensee, may continue the business of the bodywork establishment for a reasonable period of time not to exceed sixty (60) days to allow for the approval of a new license.

§ 18-233 – Sanitation and Operating Requirements.

(A) Sanitation and Safety Requirements

No bodywork establishment shall receive a license or be operated, established or maintained unless the establishment shall comply with each of the following minimum regulations:

1. Every portion of the bodywork establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
2. All massage or bodywork tables, bathtubs, shower stalls, steam or bath areas, lavatories and floors shall have surfaces which may be readily disinfected, shall be in good repair and maintained in a clean and sanitary condition.
3. Toilet facilities shall be provided within the bodywork establishment and otherwise comply with occupancy requirements. Lavatories shall provide both hot and cold running water and shall be installed in the toilet room. Lavatories shall be provided with soap and a dispenser and with sanitary towels.
4. Clean, laundered sheets and towels in sufficient quantity shall be laundered after each use thereof. Closed cabinets shall be provided and used for the storage of clean linens, towels and other materials used in administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which container or cabinets shall be kept separate from the clean storage area.
5. The Community Development Director and/or Fire Chief shall certified that the proposed bodywork establishment complies with all requirements of Section 18-233(A) and that the premises meets all applicable codes and ordinances of the City relating to building, zoning and fire safety. Said certification shall be filed with the City Manager.

(B) Operating Requirements

All licensees engaged in the business of bodywork establishments shall abide by the following requirements:

1. Supervision: The premises of the bodywork establishment shall be supervised at all times when open for business. Any establishment providing massage services shall have at least one person who is a licensed massage therapist on the premises at all times while the establishment is open. The licensee shall personally supervise the business, or shall delegate such supervisory responsibility to a manager whose name is listed on the bodywork business license and shall not violate, or permit others to violate, any applicable provisions of the chapter. The violation of any provision of this chapter by any agent or employee of the licensee shall constitute a violation by the licensee.
2. Sanitary Conditions: Every portion of the bodywork establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition as required by section 233(a) of this Article.
3. Employee Dress Code: All bodywork establishments shall require their employees, agents and independent contractors to wear clean, nontransparent outer garments covering the sexual and genital areas while on the premises and no bodywork establishment shall allow its employees, agents, and independent contractors to disrobe, or offer or agree to disrobe, either wholly while in the presence of an individual receiving bodywork services. Any such failure to be or remain clothed, or offer or agree to disrobe, is a violation of this article for which the licensee is strictly liable for purposes of license revocation and suspension.
4. Separate License For Each Premises: Licenses shall apply only to the premises described in the application, and the license issued thereon, and only one location shall be so described in each license.
5. Transfer Of License: A license shall be a purely personal privilege, effective for a period not to exceed one year after issuance unless sooner revoked as provided in this chapter, and shall not constitute a property interest. No bodywork establishment license is transferable, separate or divisible, and such authority as license confers shall be conferred only on the licensee named therein.
6. Minors Prohibited: No establishment or person licensed under the provisions of this chapter shall permit any person under the age of eighteen (18) to come or remain on the premises of any bodywork establishment including employees and patrons unless accompanied by or with the written consent of the adult parent or legal guardian of the minor. Persons under the age of eighteen (18) may patronize the establishment only with the presence or written consent of their parent or legal guardian.
1. Alcoholic Beverages Prohibited: No person shall sell, give, dispense, provide, keep, possess or consume, or cause to be sold, given, dispensed, provided, kept, possessed or consumed, any alcoholic beverage on the premises of any bodywork establishment without a valid liquor license, and no liquor shall be sold, offered or consumed in the rooms in which bodywork services are performed unless the room is open to the public. No licensee, manager or person in charge of a bodywork establishment shall permit a person impaired by intoxicating liquor or drugs to enter or remain in a bodywork establishment, or to provide or receive bodywork services.

7. Solicitations Prohibited:

- a. No bodywork establishment or person in connection therewith shall place, publish or distribute, or cause to be placed, published or distributed, any advertisement, picture, or statement in any manner and in any medium of advertisement which is known to be false, deceptive or misleading in order to induce any person to purchase or utilize any bodywork services, or which reasonably appears to suggest or imply any sexual activity in connection with bodywork or other services or which appear on any adult website or website or other platform that is known to advertise pornographic, sexual or similar services or products.
- b. No bodywork establishment shall allow its employees, agents and independent contractors to touch, or offer or agree to touch, the sexual or genital area of any person while on its premises and any such touching, offer or agreement is a violation of this article for which the licensee is strictly liable for purposes of license revocation and suspension; provided, however, that clinical massage therapy for post-mastectomy scar tissue, including myofascial release therapy, or of therapeutic treatment of breast tissue and muscles for pre-and post-surgical mastectomy, lumpectomy, or breast reconstruction, clinical perineal massage therapy for pregnant women to ease the pain of childbirth; or clinical lower abdominal massage therapy to relieve menstruation related pain are not prohibited.
- c. Every bodywork establishment shall provide prospective customers with written notice stating:

State law prohibits soliciting another for the purpose of a sexual act. Solicitation can be punishable as a Class 4 felony, subjecting an offender to fines and imprisonment, and impoundment of any vehicle used by the offender to commit the offense. We immediately report all offers or requests to buy sexual services to law enforcement.

- d. Every bodywork establishment shall post, in a conspicuous location accessible to all employees, written notice stating:

State law prohibits soliciting another for the purpose of a sexual act. Solicitation can be punishable as a Class 4 felony, subjecting an offender to fines and imprisonment, and impoundment of any vehicle used by the offender to commit the offense. You can report all offers or requests to buy sexual services to law enforcement by contacting the Peoria Police Department at (309) 494-8370 or by calling 911.

8. Hours Of Operation: No portion of any business premises used in any way for or by a bodywork establishment shall be kept open for any purpose between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. of the following day.
9. Residence Prohibited: No one shall reside in the bodywork establishment, and no one shall be allowed to remain overnight in the bodywork establishment premises. This prohibition is not intended to prohibit anyone from living in a separate portion of a

commercial building that is zoned and authorized for residential use or from conducting bodywork services out of private residential property that is zoned for residential use and is being used in compliance with zoning laws.

10. Open Door During Business Hours: The main entry to the bodywork establishment, other than single rented rooms in buildings with multiple tenants that are not performing bodywork services, shall be open and unlocked all hours that the bodywork establishment is open for and doing business, including all hours that the bodywork establishment is advertised to be open for business and/or bodywork services are performed in the premises.
11. Business Records: All licensees shall maintain, as a business record of the licensed bodywork establishment, a record of (i) the date and time of all bodywork services at the premises; (ii) the person giving such services, (iii) the amounts received for such services. The record of the date, time and service provider must be made before services are initiated and the record of the amount received must be made at the time the payment is made. Such a record for the past year's services shall be available at the premises, in a format that can be inspected at any reasonable time upon request by the City Manager.

(C) Employment of Licensed Massage Therapist

1. Bodywork establishments may not employ or contract with any person as a massage therapist who does not hold a current, valid license issued by the Illinois Department of Financial and Professional Regulation, as required by the Massage Licensing Act, 225 ILCS 57/1, et. seq.
2. Each bodywork establishment shall maintain a current listing of all licensed massage therapists who perform massage services at the site of the establishment and proof of their valid and current Illinois licensure in the form of (i) a copy of the massage therapist license issued by the Illinois Department of Financial and Professional Regulation and (ii) a copy of a state-issued photo identification for each massage therapist licensee. The massage therapist must allow inspection of such records at any reasonable time upon request by the City.
3. No licensee may allow a non-licensed massage therapist to perform massage therapy at the bodywork establishment, and no student or other unlicensed person may be permitted in a bodywork therapy room with a patron of the bodywork establishment, except where a licensed massage therapist is present in the room at all times.

(D) Employment Age Restrictions

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

§ 18-234 - Inspection.

The Police Department, Community Development Department and/or Fire Department shall from time to time, and at least annually, make an inspection of each bodywork establishment granted a license under the provisions of this article for the purposes of determining that the

provisions of this article are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. As a condition of issuance of such license, the bodywork establishment consents to walk-through inspections by authorized City employees and the Police Department, without notice, at any time during business hours. It shall be unlawful for any licensee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

§ 18-235 - Revocation or suspension.

- (A) Any permit issued for a bodywork establishment may be revoked or suspended by the City Manager after a hearing for good cause or in any case where any of the provisions of this article or of any criminal statute of the State of Illinois by the licensee or by any employee, partner, agent or independent contractor of the licensee while at the bodywork establishment. For purposes of bodywork establishment license revocation or suspension, the licensee shall be strictly liable for such violations, regardless of actual or constructive knowledge. It shall also be cause for revocation or suspension that the applicant has made a false statement on an application for a license under this article or that the licensee shall have violated any provisions of this Code or any of the statutes of the state or that the licensee refused to permit any duly authorized police officer or inspector of the City and/or the county to inspect the premises or the operations therein. Such permit may also be revoked or suspended by the City Manager, after hearing upon the recommendations of the Community Development Director and/or Fire Chief 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 or hygiene.
- (B) Any violation of this article by any employee, partner, agent or independent contractor of the licensee shall be cause for suspension of the license for not more than thirty (30) days in the first instance. Any subsequent violation of this article by any employee, partner, agent or independent contractor of the licensee shall be cause for suspension or revocation of the permit.
- (C) The City Manager, before revoking or suspending any permit, shall give the licensee at least ten days' written notice of the charges against the licensee and the opportunity for a hearing before the City Manager, at which time the licensee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.
- (D) When any license shall have been revoked for any cause, no license shall be granted to any person for the period of two (2) years thereafter for the conduct of a bodywork establishment in the premises described in such revoked license and no bodywork establishment license shall be granted, and any bodywork establishment license may be revoked or suspended for any other premises in the City with respect to the person whose license was revoked for cause, for the period of two years thereafter. Such prohibition, revocation or suspension shall apply also to the spouse, business partner or any other person who holds more than a five (5) percent ownership interest in that licensee.

§ 18-236 - Public nuisance.

Any building used as a bodywork establishment in violation of this article with the intentional knowing, reckless, or negligent permission of the owner thereof, or the agent of the owner managing the building, together with all fixtures and other property used in violation of this article are hereby declared to be a nuisance.

§ 18-237 – Penalty.

Any person who conducts a bodyworks establishment without first obtaining a license and paying a license fee to do so from the City, or who shall violate any of the provisions of this article, shall be guilty of a misdemeanor. Upon conviction or plea, such person shall be punished by a fine of not to exceed \$1,000.00 for each violation. Each day on which a violation continues shall constitute a separate violation.

Section 2. This ordinance shall be in full force and effect ninety (90) days after its passage and publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS this
_____ day of _____, 2018.

APPROVED:

Jim Ardis, Mayor

ATTEST:

Beth Ball, City Clerk

EXAMINED AND APPROVED:

Corporation Counsel