

COUNCIL CHAMBERS, CITY HALL, Davenport, Iowa, Wednesday, March 13 , 2019---
The Council observed a moment of silence. Pledge of Allegiance. The Council met in regular session at 5:30 PM with Mayor Klipsch presiding and all aldermen present.

The minutes of the February 27, 2019 City Council meeting were approved as printed.

The report of the Committee of the Whole was as follows: COUNCIL CHAMBERS, CITY HALL, Davenport, Iowa, Wednesday, March 6, 2019--The Council observed a moment of silence. Pledge of Allegiance. The Council met in Committee of the Whole at 5:30 PM with Mayor Pro tem Tompkins presiding and all aldermen present. The following Public Hearings were held: Community Development: for Case REZ19-01, request by Bradley Matthews to rezone approximately 1.1 acres located at 5000 Grand Avenue from I-1 Light Industrial District to R-MF, Residential Multifamily District. Public Works: on the plans, specifications, forms of contract, and estimated cost for the 100 Block of East 4th Street & 400 Block of Brady Street Streetscape Improvements project, CIP #35022; on the plans, specifications, forms of contract, and estimated cost for the Tremont Basin Sanitary Manhole Replacements CIP #30048; on the plans, specifications, forms of contract, and estimated cost for the General Street Resurfacing Program, CIP #35026; on the plans, specifications, forms of contract, and estimated cost for the Elmore Avenue Patching Project, CIP #35035; on the FY20 Iowa Department of Transportation State Transit Assistance (STA) Grant application in the amount of \$461,028.

Action items for Discussion: (The votes on all motions were by voice vote. All votes were unanimous unless specifically noted.) Community Development: Ald. Rawson reviewed all items listed. On motion by Ald. Ambrose, second by Ald. Dickmann all items moved to the Consent Agenda. Public Safety: Ald. Gripp reviewed all items listed. On motion by Ald. Dickmann, second by Ald. Rawson item #2 moved to the Discussion Agenda and all other items moved to the Consent Agenda. Public Works: Ald. Dunn reviewed all items listed. On motion by Ald. Condon, second by Ald. Dickmann all items moved to the Consent Agenda. Finance: Ald. Matson reviewed all items listed. On motion by Ald. Clewell, second by Ald. Rawson all items moved to the Consent Agenda. Council adjourned at 6:08 p.m.

The Discussion Agenda items were as follows: NOTE: The votes on all Ordinances and

Resolutions were by roll call vote. The votes on all motions were by voice vote. All votes were unanimous unless specifically noted.

The following Ordinance was adopted on first consideration, upon suspension of the rules and passage on second and third considerations: amending Title 5 of the Davenport Municipal Code to add Chapter 5.24 titled "Massage Business Information Requirement" and 5.25 "Reflexology Business License Requirement", 77.

ORDINANCE NO. 2019-77

Ordinance adding sections in Title 5 of the Davenport Municipal Code to change regulations relating to massage therapy and reflexology business licensing.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DAVENPORT, IOWA:

Section 1. That Chapter 5.24 entitled "Massage Business Information Requirement" is hereby added to read as follows:

Chapter 5.24 MESSAGE BUSINESS INFORMATION REQUIREMENT

Sections:

- 5.24.010 Purpose
- 5.24.020 Definitions
- 5.24.030 State License Required
- 5.24.040 Display of License
- 5.24.050 Business Information Required
- 5.24.060 Hours of Operation
- 5.24.070 Penalty

5.24.010 PURPOSE

The State of Iowa licenses massage therapists and businesses in section 152C of the Iowa Code. State licensed massage therapists and businesses offering therapy services perform an important service in addressing the health and wellbeing of Davenport's residents. Unfortunately, there are businesses that advertise they provide massage therapy and/or therapeutic services, but actually engage in various illegal activities. This Ordinance is not intended to discourage a legitimately licensed massage therapist or massage therapy business from providing their/its services in the City of Davenport. 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. Businesses providing massage therapy yet conducting various types of illegal activity are harmful to the Davenport community and the massage therapy profession.

5.24.020 DEFINITIONS

Licensed Massage Therapist (or LMT): Means an individual who has a license issued by the State of Iowa to perform massage therapy.

Massage Therapy: Means the same as it does in the massage therapy licensing provision in the State Code found at section 152C.1 of the Code of Iowa: performance for compensation

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

Massage Therapy Business: Means a place of business where “massage therapy” is practiced or administered.

5.24.030: STATE LICENSE REQUIRED

No person shall employ or contract with a person to perform massage therapy unless the person is an LMT. No person shall perform massage therapy unless the person is an LMT, unless exempted from chapter 152C of the Code of Iowa. No person shall engage in or offer to engage in the practice of massage therapy or use the initial “LMT” or the words “licensed massage therapist”, “massage therapist”, “masseur”, “masseuse” or any other word or title that implied or represents that a person practices massage therapy at the business, unless the person possesses a license issued under the provision of section 152C.3 of the Iowa Code.

5.24.040: DISPLAY OF LICENSE

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

5.25.050: INFORMATION REQUIRED

A massage business shall immediately produce upon request by City staff certain business information including:

- a. The name of business;
- b. Names of all LMTs employed or contracted by the business and their State license numbers;
- c. Names and addresses of all other person who work on the business premises whether employees or independent contractors of the business along with a description of the work performed;
- d. Government issued photo identification card for all employees or independent contractors of the business to verify and confirm identify of individuals referenced in 5.24.050 (B) and (C) ;
- e. Name(s) of the business owner; and
- f. Name(s) and mailing address(es) of all individuals who have an ownership interest in the business

5.24.060 HOURS OF OPERATION

Massage Therapy Businesses shall not be open for business nor shall patrons be permitted on the premises between the hours of 10:00pm and 5:00am.

5.24.070 PENALTY

- A. If the requested business information described in Chapter 5.24.050 is not immediately produced to City staff upon request, the business premises may be placarded. If the business information that is produced is either inaccurate or

incomplete, the business may be placarded.

- B. The Chief of Police, Neighborhood Services Director, or designee, shall place in a highly noticeable location a placard stating “Unlicensed Massage Therapy. It is unlawful to provide or receive massage therapy services at this location; and is subject to criminal and/or civil penalty per Davenport Municipal Code Chapter 5.24.” This notice shall remain posted until required business information is obtained by the City or other legal use has been established.
- C. No person shall remove the placard posted pursuant to subsection (B) of this section without approval of the Chief of Police, Neighborhood Services Director, or their designees.
- D. No person shall continue to offer or receive “massage therapy” services after a massage therapy business has been placarded unless the Police Chief, Neighborhood Services Director or their designees has approved the removal of the placard.
- E. Any person or in connection with one or more persons or as principle, agent, or accessory is found continuing to offer or receive “massage therapy” services after that establishment has been placarded may be subject to a simple misdemeanor charge or municipal infraction, punishable as provided in this Chapter or pursuant to state law.

Section 2. That Chapter 5.25 entitled “Reflexology Business License Requirement” is hereby added to read as follows:

Chapter 5.25 REFLEXOLOGY BUSINESS LICENSE REQUIREMENT

Sections:

- 5.25.010 Purpose
- 5.25.020 Definitions
- 5.25.030 City License Required
- 5.25.040 Application
- 5.25.050 Granting or Denial of Permit
- 5.25.060 Conditions Governing Issuance
- 5.25.070 Grounds for Denial and Revocation or Suspension
- 5.25.080 Hours of Operation
- 5.25.090 Penalty

5.25.010 PURPOSE

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 Davenport’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 Davenport. 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 Davenport community and the reflexology

profession.

5.25.020 DEFINITIONS:

Reflexologist: A person who performs reflexology.

Reflexology: Means the manipulation of the soft tissues of the human body that 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.

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.

5.25.030: CITY LICENSE REQUIRED

1. No person shall operate a reflexology business, either exclusively or in connection with another business, without being licensed by the City as provided in this chapter.
2. If a business is operating as a massage therapy business as defined in 5.24 and reflexology services are being provided by a licensed massage therapist, the business falls under the provisions of 5.24 and does not need to be licensed by the City

5.25.040 APPLICATION

Application for a Reflexology Business License shall be made on forms provided by the City's finance department. The application must be submitted to the City finance department within 60 days of the date this Ordinance becoming effective and before opening a reflexology business, whichever is earlier. The application shall include:

1. The business name, the address of the property to be used as the Reflexology Business, and documentation establishing control of the premises 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 control.
2. At the time of the application, the applicant shall provide the following most current and updated information as requested below in a list format to be maintained at all times concerning the applicant, owner and all employees, contractors, or other persons who are or will be present on the premises to perform reflexology:
 - a. Names and addresses of all reflexologists employed or contracted by the business that are not licensed as massage therapists;
 - b. Names and addresses of all other person who work on the business premises whether employees or independent contractors of the business along with a description of the work performed;
 - c. Government issued photo identification card for all employees or independent contractors of the business to verify and confirm identify of individuals referenced in (a) and (b) above;
 - d. Name(s) of the business owner; and
 - e. Name(s) and mailing address(es) of all individuals who have an ownership interest in the business.
3. Dates and locations of other businesses or business locations the applicant owns or operates, or has owned or operated as a reflexology or massage business.

4. In the event an applicant of licensee intends to operate a reflexology business in multiple physical locations, a separate application is required for each individual location.
5. Criminal history, excluding traffic violations, for the past three years, for anyone described in (a), (b), or (d) above.

5.25.050 GRANTING OR DENIAL OF PERMIT

Prior to opening or operating any reflexology business within the City, said proposed reflexology business shall obtain a business license from the City. License applications shall be reviewing by the Finance Director or their designee, who after considering all of the information provided shall either grant or deny the permit. The cost of the license is \$100 annually.

5.25.060 CONDITIONS GOVERNING ISSUANCE

Licenses shall only be issued to applicants who have provided all of the information requested in the application and have cooperated with the finance departments and other city officials in review of the application. The license, if issued, shall be displayed on the business premise in a conspicuous public area.

5.25.070 GROUNDS FOR DENIAL AND REVOCATION OR SUSPENSION

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

- A. If the applicant or licensee is not complying with or has a history of violations of 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;
- B. If the licensee solicits or advertised to offer services that are a violation of this chapter;
- C. If the licensee is convicted of any violation, reasonably related to the license activity and/or occurring on the license premise, of any City Ordinance or federal or state statute;
- D. If there is fraud or deception involved in the license application;
- E. If the licensee has, in the past, engaged in willful disregard for health codes and regulations;
- F. If the applicant fails to provide all the information and documentation required by this chapter;
- G. If the licensee permits individual(s) not included in the application to conduct reflexology services at the licensee's premises;
- H. If the licensee refuses to permit any authorized police offices or authorized city, county, or state governmental official to inspect the reflexologist's government ID at the premises;
- I. If the licensee is found to be violating provisions of this chapter;
- J. If the licensee promotes its services on websites that are known to advertise services that are illegal; or

- K. If the licensee provided incomplete or inaccurate information on the application.

5.25.080 HOURS OF OPERATION

The licensed premises shall not be open for business nor shall patrons be permitted on the premises between the hours of 10:00pm and 5:00am.

5.25.090 PENALTY

- A. If a 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.
- B. The Chief of Police, Neighborhood Services Director, or designee, shall place in a highly noticeable location a placard stating "Unlicensed Reflexology. It is unlawful to provide or receive reflexology services; and is subject to criminal and/or civil penalty per Davenport Municipal Code 5.25." This notice shall remain posted until required business information is obtained by the City or other legal use has been established.
- C. No person shall remove the placard posted pursuant to subsection (B) of this section without approval of the Chief of Police, Neighborhood Services Director, or their designees
- D. No person shall continue to offer or receive reflexology services after a reflexology business has been placarded unless the Police Chief, Neighborhood Services Director or designees has approved the removal of the placard.
- E. Any person or in connection with one or more persons or as principle, agent, or accessory is found continuing to offer or receive reflexology services after that establishment has been placarded may be subject to a simple misdemeanor or municipal infraction, punishable as provided in this chapter or pursuant to state law.

SEVERABILITY CLAUSE. If any of the provisions of this Ordinance are for any reason illegal or void, then the lawful provisions of this Ordinance which are separable from said unlawful provisions shall be and remain in full force and effect, the same as if the Ordinance contained no illegal or void provisions.

REPEALER. All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

EFFECTIVE DATE. This Ordinance shall be in full force and effective after its final passage and publication as by law provided.

Approved 3/13/19; Frank Klipsch, Mayor; Attest: Brian Krup, Deputy City Clerk

The Consent Agenda was as follows (NOTE: These are routine items and are enacted at the City Council meeting by one roll call vote. The vote was unanimous unless otherwise noted.):

The following Ordinance was adopted: amending Schedule I of Chapter 10.96 entitled "Snow Routes" by adding and deleting various streets, 78.

ORDINANCE NO. 2019-78

AN ORDINANCE AMENDING CHAPTER 10.96 ENTITLED SECTIONS OF THE MUNICIPAL CODE OF DAVENPORT, IOWA, BY AMENDING SCHEDULE I SNOW ROUTES THERETO BY ADDING AND DELETING VARIOUS STREETS.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DAVENPORT, IOWA:

Section 1. That Schedule I Snow Routes of the Municipal Code of Davenport, Iowa, be and the same is hereby amended by adding the following: 65th Street from Fairhaven Road to Forest Road, Fairhaven Road from 64th Street to 65th Street and deleting the following: 64th Street from Fairhaven Road to Forest Road.

SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason illegal or void, then the lawful provisions of this ordinance, which are separable from said unlawful

provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

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

EFFECTIVE DATE. This ordinance shall be in full force and effective after its final passage and publication as by law provided. Approved 3/13/19. Frank Klipsch, Mayor; Attest: Brian Krup, Deputy City Clerk.

The following Ordinances moved to second consideration: for Case REZ19-01, request by Bradley Matthews to rezone approximately 1.1 acres located at 5000 Grand Avenue from I-1 Light Industrial District to R-MF, Residential Multifamily District; amending various sections of Chapter 12.20 (Right of Way Management Regulations) to clarify specific standards for wireless structures placed within the City.

The following Resolutions were adopted: for Case CP19-01: Amending the Davenport Comprehensive Plan by assigning Future Land Use Map classifications to fifteen properties overlooked in the 2016 Comprehensive Plan Land Use Update, 79; closing various street(s), lane(s), or public grounds on the listed date(s) to hold outdoor events, 80; approving the FY20 Iowa Department of Transportation State Transit Assistance (STA) Grant application in the amount of \$461,028, 81; accepting the sanitary sewer, storm sewer, and pavement installation associated with the Village Cooperative First Addition site improvements, 82;

approving the plans, specifications, forms of contract, and estimated cost for the Tremont Basin Sanitary Manhole Replacements, CIP #30048 funded at \$771,504 in bonds abated by sewer funds, 83; approving the plans, specifications, forms of contract, and estimated cost for the 100 block of East 4th Street and 400 block of Brady Street Streetscape Improvements, CIP #35022, 84 (Ald. Meginnis abstained from voting on this item); approving the plans, specifications, forms of contract, and estimated cost for the General Street Resurfacing Program, CIP #35026, 85; approving the plans, specifications, forms of contract, and estimated cost for the Elmore Avenue Patching Project, CIP #35035, 86; acceptance for the Pheasant Creek Tributary Stream Stabilization Project, completed by Ardo Schmidt Construction, Inc. of Preston, IA with a final cost of \$133,553.27 budgeted in CIP #33023, 87; approving the contract for towing services to Fred's Towing Inc. of Davenport, IA, 88; approving two grant agreements with the Iowa Department of Transportation for the 53rd Street Reconstruction and Widening projects, 89; adopting updates to the City Administrator's Work Plan for CY 2019, 90; support for the new Downtown YMCA project, including a contribution of \$50,000 to match the State Community Attraction and Tourism (CAT) grant application, 91.

The following Motions were passed: approving noise variance requests for events on the listed dates at the listed times, 92; approving all submitted beer and liquor license applications, 93; Motion approving the contract for mowing and maintenance of Natural Resources areas to Smith Seeding Co., of Eldridge, IA in the amount of \$74,100, 94; awarding mowing contracts to the lowest responsive and responsible bidder in each category, 95; approving a contract amendment with Strand Associates in the amount of \$58,000 for engineering services at the Water Pollution Control Plant, 96; approving the contract for Exclusive Pouring Rights for the Parks and Recreation Department to Pepsi-Cola Bottling Co. of Davenport, 97; approving a contract with and ratifying previous payments to Enviromark of Davenport, IA for environmental cleanup services exceeding \$50,000 at Credit Island, 98; accepting the 2017/2018 Korn Ferry Compensation Study as final and adopting a new compensation philosophy administrative policy for non-bargaining employees, 99.

On motion Council adjourned at 5:41 P.M.

March 13, 2019

A handwritten signature in dark ink, reading "Brian J. Krup". The signature is written in a cursive style with a large, stylized 'B' and 'K'.

Brian J. Krup

Deputy City Clerk