

## ORDINANCE 13-11

AN ORDINANCE AMENDING CHAPTER 131 OF THE CODE OF ORDINANCES RELATING TO REMOVE MASSAGE ESTABLISHMENTS FROM THE DEFINITION OF PUBLIC AMUSEMENTS AND ADDING A PROVISION TO CHAPTER 130 OF THE CODE OF ORDINANCES PROHIBITING THE PRACTICE OF MASSAGE THERAPY BY PERSONS WITHOUT A STATE LICENSE AND PROVIDING PENALTIES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION, IOWA:

Section 1. Chapter 130 of the Code of Ordinances is amended by adding the following new section:

130.23: Practice of massage therapy – state license required. The practice of massage therapy as defined in section 152C.1 of the Iowa Code is prohibited by unlicensed individuals. It is unlawful for a person to engage in or offer to engage in the practice of massage therapy, or use in connection with the person's name, the initials "L.M.T." or the words "licensed massage therapist", "massage therapist" "masseur" "masseuse", or any other word or title that implies or represents that the person practices massage therapy, unless the person possesses a license issued under the provisions of section 152C.3 of the Code of Iowa.

The Chief of Police shall placard, as unsafe for entry, any building where any person has established a practice of massage therapy without a state license and shall keep the premises placarded until a state license has been obtained or some other legal use has been established.

Section 2. Section 131.01 of the Code of Ordinances is amended by deleting subsection 2 and inserting in lieu thereof the following:

2. "Public amusements" means and includes recreation events and facilities including, but not limited to, any public dance hall, skating rink, swimming pool, billiard hall, pool hall, bowling alley, shooting gallery, carnival, circus, recreational equipment of facilities of any kind or nature, including for example, amusement rides of the type commonly known at carnivals, and also any theatre, concert, or performance of any kind or nature whether inside or outside, that are open to the public. Notwithstanding the above, astrologer businesses operating as legal home occupations in accordance with the zoning ordinance are not considered as "public amusements", provided such businesses are conducted entirely by appointment only.

Section 3. Section 131.03 of the Code of Ordinances is amended by deleting subsection 5 and renumbering subsection 6.

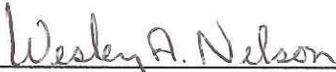
Section 4. This Ordinance shall be in full force and effect from and after its passage and publication as by law provided. Violations of this Ordinance shall be punished as provided in section 1.06 of the Code of Ordinances or may also be cited as municipal infractions under Chapter 4 of the Code of Ordinances.

Passed and approved this 16<sup>th</sup> day of June, 2013.



Snooks Bouska, Mayor

ATTEST:



Wesley A. Nelson, City Clerk

#### EXPLANATION

Section 1 of this Ordinance removes massage establishments from the definition of public amusements that are required to obtain a city license to operate.

Section 2 of this Ordinance adopts almost verbatim state code section 152C.5 that requires a state license as a prerequisite for a person to practice massage therapy. This will make having a state license a local requirement that the Marion Police can enforce by placarding the premises and/or by filing a municipal infraction.

If the Marion Police should determine that a state licensed establishment is actually a front for prostitution they can file state criminal charges (assuming there is sufficient proof to satisfy the County Attorney) and can ask that the state board revoke the persons state license.

#### CERTIFICATE OF SERVICE

The undersigned City Clerk of Marion, Iowa certifies that the ordinance shown immediately above was published in the marion times on the 20<sup>th</sup> day of June, 20 13.  
Wes Nelson  
City Clerk