

Note: See end of chapter for list of chapter amendments

CHAPTER 9

BODY ART AND MASSAGE CODE

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ARTICLE I. ADOPTION BY REFERENCE: BODY ART

SEC. 9-1100. RULES AND REGULATIONS.

The City of Moline shall adopt by reference the State of Illinois' "Tattoo and Body Piercing Establishment Registration Act," 410 ILCS 54/1 *et seq.* ("Act"), effective July 1, 2007, and any future revisions or addenda thereto as amended or revised from time to time by said State of Illinois as the Moline "Body Art Code," of which not less than three (3) copies have been and are now filed in the office of the Clerk/Legal Records' Office of the City of Moline, and which is hereby adopted and incorporated as fully set out at length herein.

ARTICLE II. IN GENERAL

SEC. 9-2100. DEFINITIONS.

As used in this chapter, the following terms shall have, unless the context indicates otherwise, the meaning ascribed to them:

- (1) **Antiseptic** means an agent that destroys disease-causing microorganisms on human skin or mucosa.
- (2) **Biochemical waste** means any solid or liquid waste which may present a threat of infection to humans, including nonliquid tissue, body parts, blood, blood products, and body fluids from humans and other primates; laboratory and veterinary wastes which contain human disease-causing agents; and discarded sharps. The following are also included: (a) used, absorbent materials saturated with blood, blood products, body fluids or excretions or secretions contaminated with visible blood and absorbent materials saturated with blood or blood products that have dried; and (b) non-absorbent, disposable devices that have been contaminated with blood, but have not been treated by an approved method.
- (3) **Body art, body art procedure or procedure** means the practice of applying physical body adornment to an individual using such invasive methods as body piercing, tattooing, cosmetic tattooing, branding, scarification, or similar procedures. This term does not include ear piercing or any procedures performed by a physician, surgeon, chiropractor, acupuncturist, dentist, dental hygienist, funeral director, embalmer, nurse, optometrist, physician assistant, or podiatrist licensed pursuant to Chapter 225, Illinois Compiled Statutes, and amendments thereto.
- (4) **Body art establishment or establishment** means any temporary or permanent place or premises where body art procedures are performed.

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- (5) **Body piercing** means puncturing or penetrating the skin of an individual using a pre-sterilized single use needle, and inserting pre-sterilized jewelry or other adornment into the opening, excluding ear piercing as defined herein.
- (6) **Disinfection** means the destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.
- (7) **Ear piercing** means puncturing the outer perimeter or lobe of the ear using a pre-sterilized single use stud and clasp ear-piercing system following manufacturer's instructions.
- (8) **Equipment** means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture display and storage areas, sinks and all other apparatus and appurtenances used in connection with the operation of a body art establishment.
- (9) **Handsink** means a lavatory equipped with hot and cold running water under pressure used solely for washing hands, arms or other portions of the body.
- (10) **Health officer** means the health officer of the City of Moline, as set forth in Chapter 8, Division 2, of the Moline Code of Ordinances, and his or her designee.
- (11) **Hot water** means water which attains and maintains a minimum temperature of at least seventy (70) degrees Fahrenheit and a maximum temperature of one hundred fifteen (115) degrees Fahrenheit.
- (12) **Instruments** used for body art means hand pieces, needles, needle bars, and other instruments that can come into contact with an individual's body or may be exposed to bodily fluids during body art procedures.
- (13) **Invasive** means entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break or compromise the skin or mucosa.
- (14) **Jewelry** means any personal ornament inserted into a newly pierced area, which has been properly sterilized prior to use.
- (15) **Liquid chemical germicide** means a disinfectant or sanitizer registered with the Environmental Protection Agency, or an approximate 1:100 dilution of household chlorine bleach made fresh daily and dispensed from a spray bottle (500 ppm; ¼ cup per gallon or two (2) tablespoons per quart of tap water).
- (16) **License** means a written document issued by the health officer approving the operation of a body art establishment or the performance of body art procedures. Licenses are issued in accordance with this chapter and are separate and distinct from any other licensing or license requirements of the City of Moline Code of Ordinances.
- (17) **Person** means an individual, any form of business or social organization, or any other non-governmental legal entity including but not limited to a corporation, partnership, limited liability company, association, trust, or unincorporated organization.
- (18) **Physician** means a person licensed by the State of Illinois to practice medicine under Chapter 225, Illinois Compiled Statutes, and amendments thereto.

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- (19) **Procedure surface** means the skin area adjacent to and including the area where a body art procedure is applied, any surface of an inanimate object that contacts the client's unclothed body during a body art procedure, or any associated work area which may require sanitizing.
- (20) **Sanitize or sanitization procedure** means a process of reducing the number of microorganisms on cleansed surfaces and equipment to a safe level in accordance with public health standards by a method approved by the health officer.
- (21) **Sharps** means objects capable of puncturing, lacerating, or otherwise penetrating the skin.
- (22) **Sharps container** means a rigid, leak and puncture resistant container, designed primarily for the containment of sharps, clearly labeled with the phrase and international biological hazard symbol.
- (23) **Single use** products or items are those intended by the manufacturer for onetime, one-person use and disposal after use. Items include but are not limited to cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups, and protective gloves.
- (24) **Sterilization** means a very powerful process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.
- (25) **Tattooing** means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instruments used to puncture the skin which results in permanent coloration of the skin or mucosa, including all forms of cosmetic tattooing.
- (26) **Technician or body art technician** means a person who performs body art procedures.
- (27) **Universal precautions** means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC) as "guidelines for prevention of transmission of human immunodeficiency virus and hepatitis B virus to health-care and public-safety workers" in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. 5-6, and as "recommendations for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures," in MMWR, July 12, 1991, Vol. 40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include hand washing, gloving, personal protective equipment, injury prevention, and proper handling and disposal of needles, other sharp instruments, and blood and body fluid contaminated products.

SEC. 9-2101. LICENSES REQUIRED.

- (a) It shall be unlawful for any person to perform body art procedures without first obtaining a body art technician license as provided in this chapter. A body art technician license shall not be transferable.
- (b) It shall be unlawful for any person to operate a body art establishment or temporary body art establishment without first obtaining a body art establishment and temporary body art establishment as provided in this chapter. Such licenses shall not be transferable.
- (c) It shall be unlawful for any person to perform body art procedures except within a body art establishment or temporary body art establishment for which the health officer has issued a current valid license.
- (d) It shall be unlawful for any person operating a body art establishment to permit or allow body art procedures to be performed by anyone who does not have a current valid body art technician license issued by the health officer.

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(e) Body art establishment and body art technician licenses expire on April 30 of each year and shall be renewed before May 1 of each year.

(f) Licensees shall maintain compliance with all requirements of this chapter and all other provisions of the City of Moline Code of Ordinances. Licensees shall notify the health officer within ten (10) days of any change of information provided in accordance with Sections 9-2102 and 9-2103 of this chapter.

SEC. 9-2102. BODY ART TECHNICIAN LICENSE REQUIREMENTS.

(a) Prior to filing an application for a body art technician license required by this chapter, the applicant shall be photographed and fingerprinted by the Moline Police Department, said fingerprinting to be used in connection with obtaining the applicant's criminal history information from the Illinois Department of State Police pursuant to the Illinois Uniform Conviction Information Act (20 ILCS 2635/1 *et seq.*) and amendments thereto.

(b) Every applicant for a body art technician license shall submit an application to the health officer providing the applicant's: (1) name; (2) date of birth; (3) gender; (4) residence address; (5) mailing address; (6) home and work phone numbers; (7) any and all previous place(s) of employment as a technician; and (8) training and experience in body art procedures. The applicant shall also provide a statement as to whether the applicant has ever been convicted, pleaded *nolo contendere* to, or is currently charged with committing, by indictment or information, any felony violation or offense or any crime of moral turpitude, and as to each such conviction, plea or charge, the applicant shall provide the conviction or plea date if applicable, the case number, the nature of the felony offense or crime of moral turpitude and the name and location of the court or other adjudicative body. The applicant must sign a fully executed waiver on a form prescribed by the City to obtain criminal conviction information based upon fingerprint identification pursuant to the Illinois Uniform Conviction Information Act (20 ILCS 2635/1 *et seq.*) and amendments thereto.

(c) The application shall be verified by oath or affidavit as to the veracity of all statements made on or in connection with the application and any attachments thereto. It shall be unlawful for an applicant to provide incorrect or false information in connection with a license application.

(d) Applicants must be eighteen (18) years of age or older.

(e) All applicants must furnish to the health officer written proof of completion of the Hepatitis B vaccination series or written documentation that the applicant declined the series prior to the issuance of a body art technician license.

(f) Applicants must demonstrate proof of satisfactory completion within the past three (3) years of satisfactory completion of a bloodborne pathogen training program compliant with Bloodborne Pathogens, OSHA, 29 CFR 1910.1030. Equivalent training provided by professional body art organizations or equipment manufacturers shall be accepted as sufficient to meet this requirement.

(g) A body art technician license may not be issued pursuant to this chapter to:

(1) A person who has been convicted of a forcible felony or more than one felony under any federal or state law, or who has refused to appear and forfeited bond after having been arrested for such forcible felony or has been convicted of any crime involving moral turpitude. "Forcible felony" means treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, arson, aggravated kidnapping, kidnapping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement and any other felony which involves the use or threat of physical force or violence against any individual;

(2) A person whose license issued under this chapter has been revoked for cause;

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- (3) A person who at the time of application for renewal of his or her body art technician license issued pursuant to this chapter would not be eligible for the license upon a first application;
 - (4) A person who has unlawfully performed body art procedures without first obtaining a body art technician license as provided in this chapter;
 - (5) A person who is addicted to the habitual use of intoxicating liquors, narcotics or stimulants to such extent as to incapacitate such person for the performance of his professional duties for any period of time.
- (h) Upon determination that the applicant meets the minimum requirements set forth herein, the health officer shall issue a body art technician license to the applicant.
- (i) The annual fee for a body art technician license is fifty dollars (\$50.00), which shall be due and payable to the City's accounts and finance office and which is in addition to any fees due to the State of Illinois pursuant to the Act.
- (j) **Exception:** Any individual who is a student of a bona fide body art training program shall be exempt from the body art technician licensing requirements set forth in this chapter for up to thirty (30) days total while enrolled and practicing the application of permanent body art as a student in said training program.

SEC. 9-2103. BODY ART ESTABLISHMENT LICENSE REQUIREMENTS.

- (a) Prior to filing an application for a body art establishment license required by this chapter, the applicant shall provide a valid copy of a License of a Body Art Establishment issued by the State of Illinois and the applicant shall be photographed and fingerprinted by the Moline Police Department, said fingerprinting to be used in connection with obtaining the applicant's criminal history information from the Illinois Department of State Police pursuant to the Illinois Uniform Conviction Information Act (20 ILCS 2635/1 *et seq.*) and amendments thereto. If the applicant is a partnership or corporation, then the individual who shall be responsible for operation of the body art establishment shall be photographed and fingerprinted by the Moline Police Department as described herein.
- (b) Every applicant for a body art establishment license shall submit an application to the health officer providing: (1) owner name (if partnership or corporation, include names and resident addresses of all partners, officers, directors and the name of its resident agent for purpose of service); (2) establishment name; (3) street address; (4) mailing address; (5) proposed hours of operation; (6) names of all body art technicians and their exact duties; (7) description of all body art procedures to be performed or not performed; (8) names and addresses of suppliers of body art equipment and supplies utilized; and (9) name, local address, and local residence telephone number of the individual who shall be responsible for operation of the body art establishment. The applicant shall also provide a statement as to whether the applicant, any of the applicant's partners, officers or directors and the individual who shall be responsible for operation of the body art establishment have ever been convicted, pleaded *nolo contendere* to, or is currently charged with committing, by indictment or information, any felony violation or offense or any crime of moral turpitude, and as to each such conviction, plea or charge, the applicant, any of its partners, officers or directors and the individual who shall be responsible for operation of the body art establishment shall provide the conviction or plea date if applicable, the case number, the nature of the felony offense or crime of moral turpitude and the name and location of the court or other adjudicative body. The applicant, or if the applicant is a partnership or corporation then the individual who shall be responsible for operation of the body art establishment, must sign a fully executed waiver on a form prescribed by the City to obtain criminal conviction information based upon fingerprint identification pursuant to the Illinois Uniform Conviction Information Act (20 ILCS 2635/1 *et seq.*) and amendments thereto.
- (c) A scale drawing and floor plan of the establishment shall be submitted with the application as well as proof of meeting the minimum requirements established in this chapter and other relevant provisions of the City of Moline Code of Ordinances.
- (d) A body art establishment license may be denied pursuant to this chapter to an applicant:

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- (1) If the applicant, or any of its partners, officers or directors, or the person who will be or is in charge of operating the establishment has been convicted of a forcible felony or more than one felony under any federal or state law, or who has refused to appear and forfeited bond after having been arrested for such forcible felony or has been convicted of any crime involving moral turpitude or has been convicted of prostitution, pandering, pimping or other offenses opposed to decency and morality. "Forcible felony" means treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, arson, aggravated kidnapping, kidnapping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement and any other felony which involves the use or threat of physical force or violence against any individual;
 - (2) If the applicant, or any of its partners, officers or directors, or the person who will be or is in charge of operating the establishment has had a license issued under this chapter revoked for cause;
 - (3) If, at the time of application for renewal of a body art establishment license issued pursuant to this chapter, the applicant would not be eligible for the license upon a first application;
 - (4) If the individual who will be in charge of the body art establishment operation does not reside in the County of Rock Island, Illinois;
 - (5) If the applicant, or any of its partners, officers or directors, or the person who will be or is in charge of operating the establishment has unlawfully operated a body art establishment without first obtaining a body art establishment license as provided in this chapter;
 - (6) If the applicant or any of its partners, officers or directors, or the person who will be or is in charge of operating the establishment is addicted to the habitual use of intoxicating liquors, narcotics or stimulants to such extent as to incapacitate such person for the performance of his professional duties for any period of time.
- (e) Upon determination that the minimum requirements for a body art establishment set forth in this chapter have been met, the health officer shall issue a body art establishment license to the applicant.
- (f) The annual fee for a body art establishment license is one hundred dollars (\$100.00), which shall be due and payable to the City's accounts and finance office and which is in addition to any fees due to the State of Illinois pursuant to the Act.
- (g) If a body art establishment changes location following issuance of a license, the licensee shall be required to pay a re-inspection fee in the amount of fifty dollars (\$50.00) to the City's accounts and finance office; said fee is in addition to any fees due to the State of Illinois pursuant to the Act.

SEC. 9-2104. EXISTING ESTABLISHMENTS AND TECHNICIANS.

- (a) A body art establishment existing or a body art technician performing body art procedures in the City before the effective date of this chapter may continue to exist and operate, provided that the establishment or technician complies with the following:
- (1) The establishment or technician shall submit an application for a license as soon as practicable but in no event shall the application be submitted later than thirty (30) days after this chapter's effective date;
 - (2) The establishment shall be inspected no later than sixty (60) days after this chapter's effective date. The purpose of this inspection is to enable the health officer to assist the establishment in identifying those items that need to be addressed for the establishment to meet the requirements of this chapter;
 - (3) The establishment or technician shall cease performing body art procedures no later than ninety (90) days after this chapter's effective date unless the establishment or technician has secured a license from the City as provided in this chapter. The health officer may grant an establishment or technician additional time for good cause shown not to exceed ninety (90) days to secure a license;
 - (4) The establishment or technician, shall, as of this chapter's effective date, comply with the following:

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- a. Section 9-2106 of this chapter;
- b. Section 9-2109 of this chapter.

(b) A body art establishment existing or a body art technician performing body art procedures in the City before the effective date of this chapter shall not be denied a license to operate or perform procedures under Sections 9-2102(f)(1) and Sections 9-2103(e)(1) based upon adverse criminal history incurred prior to the enactment of this chapter.

SEC. 9-2105. BODY ART ESTABLISHMENT PREMISES STANDARDS.

(a) The body art establishment license shall be posted within the establishment in a prominent and conspicuous area where it may be readily observed by the establishment's clients.

(b) The establishment shall be well ventilated and shall have an artificial light source equivalent to at least twenty (20) foot candles at three (3) feet above floor level, and at least one hundred (100) foot candles at the level where the body art procedure is performed and where instruments and sharps are assembled.

(c) All walls, floors, ceilings, and procedure surfaces shall be light colored, washable, smooth, free of open holes or cracks, and shall be maintained in good repair and clean condition. Carpeting is not permitted within any body art procedure area.

(d) Each technician working in the establishment shall have a procedure area with at least forty-five (45) square feet of floor space. The technician's license shall be displayed within his or her procedure area in a prominent and conspicuous place where it may be readily observed by the technician's clients.

(e) Multiple body art procedure areas shall be separated by solid or opaque dividers, curtains, or partitions, at a minimum.

(f) Each establishment shall have at least one (1) procedure area completely screened from public view for clients requesting privacy.

(g) All body art procedure areas shall be completely separated by solid partitions or by walls extending from floor to ceiling from any room used for human habitation or food preparation, and from any food establishment, hair salon, retail business, or other such activity, which could contaminate work surfaces.

(h) All procedure surfaces, including client chairs and benches, shall be of such construction as to be easily cleaned and sanitized after each client, with a liquid chemical germicide.

(i) A separate handsink with hot and cold running water, under pressure, preferably equipped with wrist or foot operated controls, and supplied with liquid soap and disposable paper towels, shall be located within or immediately adjacent to the body art procedure area(s). One handsink shall serve no more than three (3) technicians. In addition, there shall be a minimum of one (1) equipment washing sink, one (1) service sink and restroom facilities as required by the Illinois Plumbing Code in each body art establishment.

(j) At least one (1) covered waste receptacle shall be provided in each procedure area and each toilet room. Receptacles in the procedure area shall be emptied daily. Solid waste shall be removed from the premises at least weekly. All refuse containers shall be lidded, cleanable, and shall be kept clean.

(k) No animals of any kind shall be allowed in a body art establishment, except service animals used by persons with disabilities (e.g., seeing eye dogs). Fish aquariums may be allowed in waiting rooms and non-procedural areas.

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(l) Effective measures shall be taken to prevent the entrance of insects, vermin, and rodents into the establishment, such as screened openings and automatic closures on doors. No insects, vermin, and rodents shall be present in any part of the establishment, its appurtenances, and appertaining premises.

SEC. 9-2106. PROHIBITIONS.

(a) No person shall perform or license the performance of body art procedures upon a person under eighteen (18) years of age without the presence, photo identification, and written consent of the minor's parent or legal guardian. A technician or body art establishment may refuse to perform a body art procedure on a minor regardless of parental consent.

(b) No technician or body art establishment shall perform or license the performance of body art procedures on any person who appears incoherent for any reason, or appears to be under the influence of alcohol or drugs.

(c) No technician or body art establishment shall perform or license the performance of body art procedures on any skin or mucosa surface where a rash or any visible infection is present.

(d) No person affected with boils, infected wounds, open sores, abrasions, keloids, weeping dermatological lesions, or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that the person could contaminate body art equipment, supplies, instruments, or working surfaces with body substances or pathogenic organisms.

(e) Ear piercing systems using studs and clasps shall not be used anywhere on the body other than the outer perimeter and lobe of the ear.

(f) No technician or body art establishment shall perform or license the performance of any procedures implanting any object(s) under the skin, such as ball bearings, beads, etc.

(g) Smoking, eating, or drinking is strictly prohibited in the body art procedure area. No technician shall perform any body art procedure if under the influence of alcohol or drugs. No alcoholic beverages are to be on the body art establishment premises while body art procedures are being performed.

SEC. 9-2107. BODY ART NOTICE AND REPORTING REQUIREMENTS.

(a) Every person requesting a body art procedure shall be provided with verbal and written public educational information prior to the start of the procedure, in a form approved by the health officer.

(b) Every person receiving a body art procedure shall be provided with verbal and written instructions for aftercare of the body art procedure site, in a form approved by the health officer. The instructions shall advise the client of proper care for the healing of the body specific to the procedure performed and to consult a physician at the first sign of infection or swelling. The instructions shall include the name, address, and phone number of the establishment and the printed name of the technician who performed the procedure.

(c) The written information and aftercare instructions shall be signed and dated by the client and the technician. The originals shall be retained by the establishment and copies shall be given to the client.

(d) Every body art establishment shall prominently display a disclosure notice, which shall be provided with each establishment license issued by the health officer, containing the following information:

- (1) advising the public of the risks and possible consequences of body art services;
- (2) the name, address, and phone number of the health officer; and
- (3) the procedure for filing a complaint relating to body art services.

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(e) Any infection, complication, or disease resulting from a body art procedure which becomes known to the technician or establishment shall be reported to the health officer within twenty-four (24) hours. The technician and the establishment shall be jointly and severally responsible for reporting such information.

SEC. 9-2108. CLIENT MEDICAL HISTORY.

(a) Prior to performing any body art procedure, in order to properly evaluate the client's medical condition for receiving a body art procedure, the technician shall specifically request from the client verbally and in writing the following information:

- (1) history of diabetes;
- (2) history of hemophilia (bleeding);
- (3) history of skin diseases, skin lesions or skin sensitivities to soaps, disinfectants, etc.;
- (4) history of allergies or adverse reactions to pigments, dyes, or other skin sensitivities;
- (5) current or recent medications such as anticoagulants, which thin the blood or interfere with blood clotting; and
- (6) any other information that would aid in evaluating the client's body art healing expectations.

(b) Prior to performing any body art procedure, the technician shall obtain a release form signed by the client confirming that the technician obtained or attempted to obtain the medical history, and listing the information provided.

(c) The technician may refuse to perform a body art procedure if the client refuses to disclose the information requested.

SEC. 9-2109. PERFORMANCE OF BODY ART PROCEDURES.

(a) When performing body art procedures, the technician shall maintain a high degree of personal cleanliness, conform to hygienic practices, wear clean clothes, and his or her skin shall be free of rash or infection. Clothing worn by the body art technician while performing body art procedures shall not be worn by any person at any other time outside the body art establishment.

(b) Before performing a body art procedure, the immediate skin and surrounding skin area where the body art procedure is to be applied shall be washed with soap and water or an approved surgical skin preparation, depending on the type of body art to be performed. If shaving is necessary, a single use disposable razor shall be used then discarded; or a safety razor with a single service blade shall be used, the blade discarded, and then the reusable holder shall be sterilized. After shaving, the skin and surrounding area shall be washed with soap and water, and the washing pad shall be discarded.

(c) Immediately before performing body art procedures on an individual, the technician shall thoroughly wash his or her hands in hot running water with use of liquid soap, then rinse his or her hands and dry them with disposable paper towels. This shall be done as many times as necessary to remove contaminants. After hand washing is completed, the technician shall don disposable medical gloves.

(d) The technician shall wear disposable gloves during all procedures. Gloves shall be discarded after the completion of each procedure on an individual client, and hands washed prior to donning the next set of gloves. Under no circumstances shall a single pair of gloves be used on more than one (1) person. The use of disposable medical gloves does not preclude or substitute for the hand washing procedures described herein.

(e) If, prior to or while performing a body art procedure, the technician's glove or gloves are pierced or torn or become contaminated by contact with any non-clean surface or object, by contact with a third person, or

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otherwise, the technician shall immediately discard the gloves, repeat the hand washing procedure, and put on a fresh pair of gloves to complete the procedure.

(f) Any instrument used for body art, which is contaminated during the procedure, shall be discarded and replaced immediately with a new disposable or sterilized instrument before the procedure resumes.

SEC. 9-2110. RECORDS.

(a) The body art establishment shall keep a record of all body art procedures performed. The record shall include the client's name, date of birth, client's address, date of the procedure, type and location of each procedure performed, name of the technician who performed each procedure, signature of client, and, if the client is a minor, proof of parental or guardian presence and written consent. Signed copies of the client release form, and aftercare forms shall also be maintained by the establishment. All records shall be available for inspection by the health officer upon request.

(b) Records containing a client's personal medical information shall be considered confidential by the establishment. The health officer shall keep personal medical information confidential to the extent disclosure is not required under applicable state and federal law, in the administration and enforcement of this chapter.

(c) All records required by this code shall be retained by the establishment for a minimum of three (3) years.

SEC. 9-2111. EQUIPMENT, INSTRUMENTS AND SUPPLIES; SANITATION AND STERILIZATION PROCEDURES.

(a) Both sterilized and clean instruments and supplies shall be stored in clean, dry, covered containers.

(b) All instruments used in body art procedures shall remain stored in sterile packages until just prior to use. Sterile instruments and equipment shall not be used if the package has been breached or the expiration date has expired, without first repackaging and resterilizing.

(c) All products used to check the flow of blood or to absorb blood shall be single use and disposable.

(d) All products applied to the skin, including body art stencils, shall be single use and disposable. Petroleum jellies, soaps and other products used in the application of stencils shall be dispensed and applied on the area to be tattooed with sterile gauze or in a manner to prevent contamination of the original container and its contents. The gauze shall be used only once and then discarded.

(e) All inks, dyes, pigments, needles, and instruments used shall be specifically manufactured for performing body art procedures, and shall be used according to manufacturer's instructions. The mixing of approved inks, dyes, or pigments, or their dilution with potable water, is acceptable. Immediately before applying a tattoo, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use paper or plastic cups or caps. Upon completion of the tattoo, these single cups or caps and their contents shall be discarded.

(f) Jewelry used in body art procedures shall be made only of the following materials: surgical implant grade stainless steel, solid 14k or 18k white or yellow gold; niobium; titanium; platinum; or a dense, low-porosity plastic. All jewelry shall be free of nicks, scratches, or irregular surfaces, and shall be properly sterilized prior to use.

(g) When assembling instruments used for performing body art procedures, the technician shall wear disposable medical gloves and shall use medically recognized techniques to ensure that the instruments and gloves are not contaminated.

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(h) Single-use items shall be discarded immediately after each use, and shall not be used on more than one (1) client for any reason.

(i) Reusable cloth items shall be mechanically washed with detergent and dried after each use.

(j) Every body art establishment shall have a health officer-approved sterilizer unless only sterile supplies and single-use disposable instruments and products are used. Sterilizers shall be located away from procedures areas and areas frequented by the public.

(k) The following process shall be followed after each use for all non-single use, non-disposable instruments used for body art:

- (1) the instrument shall be cleaned by scrubbing with an appropriate soap or disinfectant solution and hot water, or by following the manufacturer's cleaning instructions, to remove blood and tissue residue;
- (2) the instrument shall be placed in an autoclave sterilization unit, which shall be operated in accordance with manufacturer's instructions;
- (3) the instrument shall be packed individually in a peel-pack containing either a sterilizer indicator or internal temperature indicator, and sterilized;
- (4) peel-packs shall be dated with an expiration date not to exceed sixty (60) days, and before the expiration of such time shall be re-sterilized.

(l) Sterilizers shall be used, cleaned, and maintained according to manufacturer's instructions. A copy of the manufacturer's recommended procedures for the operation of the sterilization unit shall be available for inspection by the health officer.

(m) Each body art establishment shall demonstrate by monthly spore destruction tests that the sterilizer used is capable of attaining sterilization. The tests shall be verified through an independent laboratory. Tests records shall be retained for a period of three (3) years, and shall be made available to the health officer upon request. The establishment license shall not be issued or renewed until the health officer receives documentation of the sterilizer's ability to destroy spores.

SEC. 9-2112. STORAGE AND DISPOSAL OF WASTE.

(a) Storage of biomedical waste on-site shall not exceed the period specified by the health officer, or more than thirty (30) days.

(b) Sharps shall be disposed of in approved sharps containers.

(c) All products used to check the flow of blood or to absorb blood shall be disposed of immediately after use in appropriate covered containers, unless the disposal product meets the definition of biomedical waste.

(d) Non-biomedical waste which does not release liquid blood or body fluids when compressed, or does not release dried blood or body fluids when handled, shall be placed in a covered receptacle and disposed of through normal, approved disposal methods.

(e) Biomedical waste which may release liquid blood or body fluids when compressed, or which may release dried blood or body fluids when handled, shall be placed in an approved "red" bag marked with the International biohazard symbol, and disposed of by a biomedical waste transporter registered by the Illinois Department of Health.

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**ARTICLE III. TEMPORARY BODY ART ESTABLISHMENTS
AND TECHNICIANS**

SEC. 9-3100. TEMPORARY LICENSES.

(a) Temporary body art establishment and temporary body art technician licenses may be issued for events such as product demonstrations, industry trade shows, educational training, and special events.

(b) Temporary licenses shall be issued only for the specific duration of the event and shall not be valid for any period in excess of three (3) consecutive days.

(c) Temporary licenses shall not be transferable.

(d) Temporary licenses may be immediately suspended or revoked for failure of the licensee to comply with the requirements of this chapter.

SEC. 9-3101. TEMPORARY LICENSE APPLICATIONS.

(a) An application for a temporary body art establishment or mobile body art vehicle license must be submitted in writing for review by the health officer at least thirty (30) days prior to the event. The request shall specifically identify:

- (1) the purpose for which the license is requested;
- (2) the period of time for which the license is requested, not to exceed three (3) days;
- (3) the location of the temporary establishment; and
- (4) the names of all technicians who will perform body art procedures in the temporary establishment.

Applicants are responsible for compliance with all other City of Moline regulations, including without limitation, zoning and business license requirements.

(b) An application for a temporary body art technician license must be submitted in writing for review by the health officer at least thirty (30) days prior to the event. The application shall include:

- (1) proof of compliance with the body art technician requirements set forth in this chapter; or
- (2) proof that the applicant is currently affiliated with a fixed location or permanent body art establishment permitted by an appropriate state or local government.

(c) No temporary establishment license shall be issued unless the establishment has body art technicians with valid annual or temporary licenses issued by the health officer.

SEC. 9-3102. TEMPORARY BODY ART ESTABLISHMENTS.

(a) Temporary establishments shall be inspected prior to use to ensure compliance with the requirements of this chapter. Additional inspections may be performed during the event.

(b) The temporary establishment must be within a completely enclosed non-mobile structure and be secured against the entry of insects or vermin.

(c) All establishment and technician licenses and the disclosure notice, health officer information, and complaint procedure as set forth in this chapter must be displayed in a prominent and conspicuous area where they may be readily seen by clients.

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(d) The temporary establishment must comply with all of the requirements of this chapter, except as follows:

- (1) drainage in accordance with local plumbing codes shall be provided;
- (2) tuberculocidal single use hand wipes, approved by the health officer, must be available in each booth or cubicle to augment the hand washing requirements of this section;
- (3) a minimum of eighty (80) square feet of floor space shall be available.

Facilities and equipment shall be available to properly sterilize instruments. A spore test report performed on sterilization equipment thirty (30) days or less prior to the date of the event shall be provided, or only single use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers shall be used.

ARTICLE IV. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. IN GENERAL

SEC. 9-4100. HEALTH OFFICER TO ENFORCE.

The health officer is hereby designated as the person charged with enforcing the provisions of this chapter. The health officer shall have the following powers and duties:

- (a) To administer and rule upon license applications as set forth in this chapter;
- (b) To conduct and provide for inspections of body art establishments as shall be necessary to determine and ensure compliance with the provisions of this chapter and other applicable provisions of law in accordance with the Act;
- (c) To conduct such hearings on license suspension or revocation as required pursuant to this chapter;
- (d) To take such further action as the health officer deems necessary to carry out the purposes and intent of this chapter and to exercise such additional powers in furtherance thereof as are implied or incident to those powers and duties expressly set forth in this chapter.

SEC. 9-4101. HEALTH OFFICER COMPETENCY REQUIREMENTS.

The health officer performing licensing functions, environmental health/sanitary evaluations, complaint investigations, inspections of body art establishments or performing any other duties pursuant to this chapter shall be trained in body art licensing and inspections as administered by the State of Illinois.

SEC. 9-4102. RENEWAL OF LICENSE.

(a) All body art establishment and body art technician licenses, except for temporary body art establishment licenses, shall be renewed annually by submitting a re-licensing application to the health officer at least thirty (30) calendar days prior to May 1 of each year. Whenever an inspection for renewal of a license reveals serious or repeated violations of this chapter or other provisions of the City of Moline Code of Ordinances, the license shall not be issued and the health officer shall notify the applicant immediately thereof. Any such notice shall set forth in writing the reasons for failing or refusing to renew the license. Such notice shall also state that an opportunity for a hearing shall be provided for the applicant at a time and date designated by the health officer. Such hearing shall be scheduled not later than ten (10) calendar days from the date of the notice. A license which expires without being renewed shall be removed from the body art establishment or the body art technician by the health officer.

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(b) If the applicant for renewal of a license provides adequate documentation of a reasonable time schedule for correcting non-health threatening repeat violations, the health officer may renew the license. Failure to comply with the time schedule for corrections may result in immediate suspension of the license as provided herein.

SEC. 9-4103. ADMINISTRATIVE HEARING; COMPLIANCE CONFERENCE.

Whenever a license holder fails to comply with a notice to correct repeated violations, the license holder may be required to attend a compliance conference with the health officer, the building official and other parties deemed necessary by the health officer and the license holder. The intent of this conference shall be to achieve compliance with the provisions of this chapter prior to invoking license suspension or revocation proceedings.

SEC. 9-4104. LICENSE SUSPENSION.

(a) A license may be suspended temporarily by the health officer for failure by the license holder to comply with the requirements of this chapter or other provisions of the City of Moline Code of Ordinances. Whenever a license holder has failed to comply with any notice issued pursuant to the provisions of this chapter, the license holder shall be notified in writing that the license is, upon service of a notice, immediately suspended or that the suspension shall be effective on a specific future date, and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the health officer within three (3) days of the suspension notice date. The license holder shall be afforded a hearing as soon as practicable.

(b) Notwithstanding any other provision of this chapter, if the health officer finds unsanitary or other conditions, which, in the judgment of the health officer, constitute a substantial hazard to the public health, the license may be immediately suspended. A license may be suspended without warning or notice of hearing, and upon conditions, specifying the corrective action to be taken and specifying the time period within which such action shall be taken. If deemed necessary, such order shall state that the license is immediately suspended and all body art procedures are to cease at once. Any person to whom such an order is issued shall comply immediately; but upon written petition to the health officer within three (3) days of the suspension date, the license holder shall be afforded a hearing as soon as practicable.

SEC. 9-4105. REINSTATEMENT OF SUSPENDED LICENSE.

Any license holder whose license has been suspended may at any time make a written request for a reinspection for the purpose of license reinstatement. This request shall include a statement signed by the licensee that, in said licensee's opinion, the conditions resulting in suspension of the license have been corrected. The request shall also contain any necessary documentation required by the health officer to assure compliance with the notice to correct. Within five (5) business days following receipt of a written request, the health officer shall make a re-inspection or otherwise evaluate the written request. If the licensee is found to be in compliance with the requirements of this chapter and other provisions of the City of Moline Code of Ordinances, the license shall be reinstated.

SEC. 9-4106. REVOCATION OF LICENSE AND CONDITIONAL LICENSES.

(a) For serious or repeated violations of any of the requirements of this chapter or other provisions of the City of Moline Code of Ordinances, including without limitation unlawfully operating a body art establishment or performing body art procedures without having first obtained the appropriate license as required by this chapter, or for interference with the health officer in the performance of any of his or her duties as set forth herein, any body art establishment or body art technician license may be permanently revoked after an opportunity for a hearing has been provided by the health officer.

(b) A body art establishment license may also be revoked, after an opportunity for hearing has been provided by the health officer, for the following reasons:

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- (1) If the licensee, or any of its partners, officers or directors, or the person who is in charge of operating the establishment who has been convicted of a forcible felony or more than one felony under any federal or state law, or who has refused to appear and forfeited bond after having been arrested for such forcible felony or has been convicted of any crime involving moral turpitude or has been convicted of prostitution, pandering, pimping or other offenses opposed to decency and morality. "Forcible felony" means treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, arson, aggravated kidnapping, kidnapping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement and any other felony which involves the use or threat of physical force or violence against any individual;
- (2) If the licensee or any of its partners, officers or directors, or the person who is in charge of operating the establishment is addicted to the habitual use of intoxicating liquors, narcotics or stimulants to such extent as to incapacitate such person for the performance of his professional duties for any period of time. If the individual who is in charge of the body art establishment operation does not reside in the County of Rock Island, Illinois;
- (3) If the licensee is guilty of fraudulent, false, misleading or deceptive advertising;
- (4) If the licensee is guilty of willful negligence in the practice of tattooing or has been guilty of employing, allowing or permitting any unlicensed person to perform tattooing in his establishment;
- (5) If liquor is being sold or consumed within the establishment;
- (6) If the establishment has abandoned the practice of tattooing or that the individual licensee has abandoned the same practices. For purposes of this subsection, "abandonment" shall mean that the activities regulated hereunder, or any of them, have ceased or are otherwise not conducted for a period of sixty (60) days at the establishment in question, or where an individual licensee has abandoned the activities regulated hereunder, or any of them, for a like period;
- (7) If the licensee, or any of its partners, officers or directors, or the person who is in charge of operating the establishment has unlawfully operated a body art establishment without first obtaining a body art establishment license as provided in this chapter.

(c) Prior to the revocation provided for in subsections (a) and (b) above, the health officer shall notify the license holder in writing stating the reasons for which the license is subject to revocation and advising that the license shall be permanently revoked at the end of five (5) calendar days following service of such notice, unless a request for a hearing is filed with the health officer by the license holder within such five (5) calendar-day period. A license may be suspended for cause pending its revocation or a hearing relative thereto.

(d) In lieu of revocation, a body art establishment or body art technician may be granted a conditional license. An agreement shall be submitted by the body art establishment or the body art technician stating the actions said establishment or technician deems necessary to provide a continuing compliance program. Based on approval from the health officer, the license shall be removed and replaced with a new license marked as "Conditional." The conditional license shall then be in effect until the regular license expiration date. Failure to comply with the terms of the written agreement shall cause the license to be permanently revoked pursuant to the provisions contained herein.

(e) Any licensee, whether an establishment or technician, who has had its license revoked three (3) times, shall be ineligible for any license hereunder for a period of five (5) years beginning with the effective date of the third revocation.

SEC. 9-4107. NOTICES.

A notice provided for in this chapter is properly served when it is delivered to the license holder or the person managing a body art establishment holding a license, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the license holder. A copy of the notice shall be maintained in the records of the health officer. A completed inspection report form or a letter are considered proper forms of notice.

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SEC. 9-4108. HEARINGS, IN GENERAL.

Hearings provided for in this chapter shall be conducted in a time and place designated by the health officer. Hearings shall be held before a body art hearing committee consisting of the City's police chief or designee, revenue manager or designee, and a paramedic designated by the fire chief. Based upon the record of the hearing, the body art hearing committee shall make written findings and shall sustain, modify, or rescind any official notice or order of the health officer considered in the hearing.

DIVISION 2. INSPECTIONS

SEC. 9-4200. RIGHT TO INSPECT AND EXAMINE RECORDS.

The health officer may conduct inspections as often as necessary throughout the year to ensure compliance with this chapter and other provisions of the City of Moline Code of Ordinances. The health officer, after providing proper identification, shall be permitted to enter any body art establishment at any reasonable time, but in no event less than all hours said establishment is open for business for the purpose of making inspections and to determine compliance with this chapter and other provisions of the City of Moline Code of Ordinances. The health officer shall be permitted to examine the records of the body art establishment to obtain information pertaining to any matter regulated herein.

SEC. 9-4201. REPORT OF INSPECTIONS.

Whenever an inspection of a body art establishment is made, the findings shall be reported on an inspection report form. The inspection report form shall summarize the requirements of this chapter. Inspection remarks shall be written and shall state any correction to be made. Following such inspection, a copy of the inspection report shall be furnished to the licensee. The health officer shall retain the original of all inspection reports. The completed inspection reports are public documents that shall be made available for public inspection to any person who requests same according to the Illinois Freedom of Information Act, 5 ILCS 140/7, and amendments thereto.

SEC. 9-4202. CORRECTION OF VIOLATIONS.

(a) The completed inspection report form shall specify a reasonable period of time for the correction of any violations found. Correction of a violation shall be accomplished within the period specified in accordance with the following provisions:

- (1) If an imminent health hazard exists, the body art establishment or body art technician shall immediately cease body art procedures;
- (2) For serious violations, violations shall be corrected as soon as possible, but in any event, within ten (10) business days following inspection. Within fifteen (15) days following inspection, the license holder shall receive notice by the health officer stating that violations have been corrected. A follow-up inspection, as deemed necessary by the health officer, shall be conducted to confirm correction;
- (3) Non-serious violations shall be corrected within ten (10) calendar days;
- (4) In the case of temporary body art establishments or mobile body art vehicles, all violations shall be corrected immediately. If the violations are not corrected the temporary body art establishment or mobile body art vehicle shall immediately cease performing body art procedures until authorized by the health officer.

(b) Failure of the license holder to comply with any time limits for corrections may result in the health officer ordering the cessation of body art procedures. An opportunity for hearing on the inspection findings or the time limitations or both will be provided if a written request is filed with the health officer within ten (10) calendar days following cessation of operations. If a request for hearing is received, a hearing shall be held as soon as practicable.

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(c) Whenever a body art establishment or body art technician is required under the provisions of this chapter to cease performing body art procedures, they shall not resume such procedures until it is shown upon reinspection that the conditions responsible for the order to cease procedures no longer exists. Opportunity for reinspection shall be offered within a reasonable time.

SEC. 9-4203. EXAMINATION AND CONDEMNATION OF EQUIPMENT.

(a) Where equipment used in performing body art procedures is found to be in a state of disrepair, unsafe, unsuitable for use or unsanitary, such equipment shall be taken out of use and a hold order placed on said equipment by the health officer. Such equipment may not be put back into service until written permission is obtained from the health officer. It shall be unlawful for any person to move or alter a hold order notice or tag placed on equipment by the health officer. After the license holder has had a hearing as provided in this chapter and on the basis of the evidence produced at such hearing or on the basis of examination in the event that a written request for a hearing is not received within ten (10) business days, the health officer may vacate the hold order or may, by written notice, direct the license holder to bring such equipment into compliance with the provisions of this chapter. Such order shall be stayed if the order is appealed to a court of competent jurisdiction within ten (10) business days.

ARTICLE V. PENALTIES

SEC. 9-5100. PENALTIES FOR VIOLATIONS OF THIS CHAPTER.

Any person who violates, neglects, refuses to comply with or exists or participates in any way in the violation of any of the provisions or requirements of this chapter commits an offense. Any person committing any offense under this chapter shall be fined as follows: not less than two hundred fifty (\$250.00) for a first offense, not less than five hundred dollars (\$500.00) for a second offense, and not less than seven hundred fifty (\$750.00) for a third or subsequent offense.

ARTICLE VI. MASSAGE ESTABLISHMENTS

SEC. 9-6100. DEFINITIONS.

As used in this chapter, the following terms shall have, unless the context indicates otherwise, the meaning ascribed to them:

- (1) **Health officer** means the health officer of the City of Moline, as set forth in Chapter 8, Division 2, of the Moline Code of Ordinances, and his or her designee.
- (2) **Massage** means any method of pressure on, friction against, or stroking, kneading, rubbing, tapping, pounding, bathing, touching, binding, painting, irritating, or stimulating of external soft parts of the body with hands or with the aid of any manual, mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptic oils, powder, creams, lotions, soaps, ointments or other similar preparations commonly used in this practice, but does not mean the provision by a State of Illinois licensed barber or cosmetologist of customary barber or cosmetologist services, including without limitation scalp rubs, hand rubs, feet and lower leg rubs, and facials, that are authorized by the State license. Further massage does not include an act of a State registered athletic trainer or the diagnosis, prescribing drugs or medicines, spinal or other joint manipulations, nor any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.
- (3) **Massage establishment** means any building, room, place or establishment, other than a regularly licensed hospital, dispensary, or nursing home, where nonmedical and nonsurgical manipulative

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exercises are practiced upon the human body or where activities described in the definition of “massage,” whether as a primary, secondary, or ancillary purpose of the business, are engaged in for a fee or other gratuity. Any establishment engaged in or carrying on, or permitting any combination of massage and bath house shall also be deemed a massage establishment.

- (4) **Operator** means individual or other entity that operates, owns, or controls a massage establishment under this chapter.
- (5) **Therapist** means an individual who is properly licensed and maintains such license by the State of Illinois Department of Professional Regulation, in accordance with the Massage Licensing Act, 225 ILCS 57/1 et seq., or an individual specifically exempted therefrom. By reference hereto, and to the fullest extent possible, the City adopts the provisions of 225 ILCS 57/1 et. seq., including all requirements thereof.
- (6) **Sexual or genital area** means the genitals, pubic area, buttocks, anus or perineum of any person, or the vulva or breasts of a female.

SEC. 9-6101. LICENSE REQUIRED.

No person shall operate a massage establishment within the City without first having obtained a massage establishment license therefore from the City. All massage therapists employed in the massage establishment must possess a current and valid massage therapist license issued by the State of Illinois.

SEC. 9-6102. LICENSE OFFICER – DESIGNATED POWERS AND DUTIES.

The health officer is hereby designated as the person charged with enforcing the provisions of this chapter. The health officer shall have the following powers and duties:

- (a) To administer and rule upon license applications as set forth in this chapter;
- (b) To conduct and provide for inspections of massage establishments as shall be necessary to determine and ensure compliance with the provisions of this chapter and other applicable provisions of law;
- (c) To conduct such hearings on license suspension or revocation as required pursuant to this chapter;
- (d) To take such further action as the health officer deems necessary to carry out the purposes and intent of this chapter and to exercise such additional powers in furtherance thereof as are implied or incident to those powers and duties expressly set forth in this chapter.

SEC. 9-6103. LICENSE APPLICATION.

(a) Every applicant for a license to operate a massage establishment shall file an application under oath with the City on a form provided by the City along with the proper license fee. The application shall contain the following information:

- (1) Every applicant for a massage establishment license shall submit an application to the health officer providing: (1) owner name (if partnership or corporation, include names and resident addresses of all partners, officers, directors and the name of its resident agent for purpose of service); (2) establishment name; (3) street address; (4) mailing address; (5) proposed hours of operation; (6) names of all therapists and employees and their exact duties; (7) description of all services to be performed; (8) name, local address, and local residence telephone number of the individual who shall be responsible for operation of the massage establishment. The applicant shall also provide a statement as to whether the applicant, any of the applicant’s partners, officers or directors and the

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individual who shall be responsible for operation of the massage establishment have ever been convicted, pleaded *nolo contendere* to, or is currently charged with committing, by indictment or information, any felony violation or offense or any crime of moral turpitude, and as to each such conviction, plea or charge, the applicant, any of its partners, officers or directors and the individual who shall be responsible for operation of the massage establishment shall provide the conviction or plea date if applicable, the case number, the nature of the felony offense or crime of moral turpitude and the name and location of the court or other adjudicative body.

- (2) An attestation that the individual submitting the application is at least eighteen (18) years of age, and an acknowledgement that the information submitted in the application is true and correct, under penalty of perjury as set forth in 735 ILCS 5/1-109.
- (3) Previous experience in the massage therapy business, and whether or not any previous license to operate a massage establishment has ever been suspended or revoked.
- (4) Certification from the City of Moline building and zoning departments that proposed licensed premises are in conformity with all regulations and ordinances of said departments.
- (5) The applicant for a massage establishment license shall provide proof that all therapists so employed in the establishment possess a current and valid massage therapist license issued by the State of Illinois.

(b) Upon receipt of all required application materials, the chief of police, or designee thereof, shall review the criminal history of the applicant and provide a report to the health officer that includes information on any criminal history and whether the applicant meets the requirements of the ordinance.

SEC. 9-6104. LICENSE TERM, EXPIRATION AND RENEWAL.

(a) Every massage establishment license issued pursuant to this chapter shall be granted for a period of not more than one (1) year, unless sooner revoked or suspended, and every license shall expire on the thirtieth (30th) day of April following the date of its issuance. All massage establishment licenses shall be renewed annually by submitting a re-licensing application to the health officer at least thirty (30) calendar days prior to May 1 of each year. Whenever an inspection for renewal of a license reveals serious or repeated violations of this chapter or other provisions of the City of Moline Code of Ordinances, the license shall not be issued and the health officer shall notify the applicant immediately thereof. Any such notice shall set forth in writing the reasons for failing or refusing to renew the license. Such notice shall also state that an opportunity for a hearing shall be provided for the applicant at a time and date designated by the health officer. Such hearing shall be scheduled not later than ten (10) calendar days from the date of the notice. A license which expires without being renewed shall be removed from the massage establishment by the health officer.

(b) If the applicant for renewal of a license provides adequate documentation of a reasonable time schedule for correcting violations and a plan to ensure violations are not repeated, the health officer may, but is not required, to renew the license. Failure to comply with the time schedule for corrections may result in immediate suspension of the license as provided herein.

(c) Except as otherwise provided, each license may be renewed upon proper application and payment of the required fee. The requirements, procedures, and fees for renewal of a license shall be the same as the requirements, procedures, and fees for granting a new license.

SEC. 9-6105. LICENSE FEE.

The fee for a massage establishment license shall be fifty dollars (\$50.00) per year.

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SEC. 9-6106. EMPLOYEE RECORDS AND LICENSE DISPLAY REQUIRED.

(a) The operator of a massage establishment must maintain a register of all persons employed as massage therapists and must maintain copies of each individual's valid license issued by the State of Illinois pursuant to the Massage Licensing Act, 225 ILCS 57/1, et seq., or valid certificate issued by an authorized bona fide organization as set forth in the Act. Every licensee shall display a valid State of Illinois license and a City of Moline license in a conspicuous place within the massage establishment so that the licenses may be readily seen by persons entering the premises.

(b) The operator shall keep a list containing the names and current addresses of all employees working at the licensee's business premises along with a declaration as to whether the employee is employed as a massage therapist as defined herein. This list shall be revised by the licensee within five (5) business days of the departure or upon the hiring of a new employee. Such register, licenses, certificates, and corresponding documentation shall be available for inspection at all times during regular business hours or whenever requested by the City.

SEC. 9-6107. HOURS OF OPERATION AND INSPECTION.

(a) No massage establishment shall be kept open for any purpose between the hours of 10:00 p.m. and 5:30 a.m. on any day. Hours shall be posted and be conspicuously visible from the exterior of the establishment.

(b) Each establishment shall allow inspection by the City of Moline police department, code official, health official, city attorney or any other designee of the City during regular business hours with or without notice or cause.

(c) In the event that the establishment does not maintain regular business hours, but operates by appointment, the establishment shall provide the City with a telephone number which shall include a working voice mailbox and email address of a person, employee, or agent with authority to allow access to the establishment for inspection by the City. Said establishment shall allow access for inspection within forty-eight (48) hours of receiving notice of the City's request for inspection.

(d) If the City requests inspection by email, notice shall be deemed to have been received by the massage establishment on the date and time of the City's email transmission. If the City requests inspection by phone, notice shall be deemed to have been received by the massage establishment on the date and time of the City's phone call. If the City is unable to speak to an agent or employee of the massage establishment by phone, the City shall request inspection by leaving a message in the establishment's voicemail box, which shall include the contact information of the health officer or other City employee or designee requesting the inspection. Notice shall be deemed to have been received on the date and time the City leaves the voicemail message.

SEC. 9-6108. LICENSE CONSTITUTES PROPERTY; NONTRANSFERABLE.

The license granted under this chapter is a personal privilege and shall constitute property. All licenses are nontransferable.

SEC. 9-6109. CHANGE OF BUSINESS LOCATION; NOTIFICATION.

The licensee shall notify the health officer ten (10) days in advance of any change of business location and must obtain the health officer's written approval of such change of business location.

SEC. 9-6110. OPERATING REQUIREMENTS.

(a) Every portion of the massage establishment and all mechanical and therapeutic devices that come into contact with the human body shall be kept cleaned, sanitized and operated under sanitary conditions.

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(b) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor cabinets, shower compartments and toilet room shall be thoroughly cleaned each day the business is in operation. Bathtubs and showers shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.

(c) Each therapist shall wash his or her hands in hot running water, using a proper disinfectant soap before administering a massage to each patron. Hand washing facilities should be in each room or as close as practicable.

(d) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner. All towels and linens furnished for use of one (1) patron shall not be furnished for use of another until laundered.

(e) The sexual or genital area of patrons must be covered by nontransparent towels, cloths or undergarments when in the presence of an employee or therapist.

(f) At all times, all employees, including therapists, shall be clean and wear clean, opaque, nontransparent outer garments without holes, and provide complete coverage from mid thigh to two (2) inches below the collarbone.

(g) No therapist shall administer a massage to a patron who exhibits any skin fungus, skin infection, skin inflammation, skin eruption or skin lesions (open or healing sores), unless a physician duly licensed by the State of Illinois has certified in writing that such person may be safely massaged and the patron provides a copy of such document to the therapist prior to the massage.

(h) No person suffering from any symptoms described in subsection (g) of this section shall work in a massage establishment.

(i) Oils, creams, lotions or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.

(j) Eating in the massage work areas shall not be permitted. Animals, except for duly certified service animals, shall not be permitted in the massage work areas.

(k) No therapist, employee or operator shall perform, offer or agree to perform, any act which would require the touching of the patron's sexual or genital area. It is unlawful for any person in the massage establishment to touch, fondle, or massage a sexual or genital area of any other person.

(l) Each therapist shall disclose to each patron health problems that may be contraindicated to the administration of massage therapy.

SEC. 9-6111. PERSONS UNDER AGE 18 PROHIBITED.

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

SEC. 9-6112. ADVERTISING.

Any advertising for a massage establishment shall be for the establishment itself and services authorized by the establishment licensing under this chapter. False and misleading advertising by the licensee or operator of a massage establishment is prohibited. No massage establishment granted a license under the provisions 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, including any sex

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service and/or escort service, is available. No advertising shall suggest that employees or massage therapists are dressed in any manner other than permitted by this chapter. Any licensed establishment is expected to actively monitor advertising for its establishment and its employees or any other information pertaining to be within its operations. A violation of this section shall be presumed to be with the knowledge of the licensee, without further proof of actual or constructive knowledge, if the advertising persists for forty-eight (48) hours after the health officer or other City designee identifies a potential violation of this section.

SEC. 9-6113. OUT-CALL MASSAGE SERVICE.

No out-call massage service may be operated other than by a licensee under this chapter. All massages performed by an out-call massage service shall be performed in conformance with this chapter. An out-call massage service is a business which gives massages at a location designated by the patron rather than a fixed and permanent location.

SEC. 9-6114. INSPECTIONS.

(a) Inspections shall be made at reasonable times and in a reasonable manner. It is unlawful for any licensee to fail to allow the health officer or other City designee access to the premises or to hinder such officer in any manner.

(b) The health officer, Moline Police Department and the Moline building and zoning departments may make inspections of the massage establishments for the purposes of determining whether the establishment is operating under and in compliance with the provisions of this chapter and other applicable ordinances and state and federal laws.

SEC. 9-6115. LICENSEE PUNISHABLE FOR ACTS OR OMISSIONS.

Every act of omission of whatsoever nature constituting a violation of any of the provisions of this chapter, by any officer, director, manager or other agent or employee of any licensee, shall be deemed and held to be the act of such operator or licensee, and said operator or licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him personally.

SEC. 9-6116. LICENSE SUSPENSION AND REVOCATION PROCEDURES.

Any license issued for a massage establishment may be revoked or suspended by the health officer for good cause or for any violation of any provision of this chapter.

SEC. 9-6117. CAUSE FOR DENIAL, REVOCATION OR SUSPENSION OF LICENSE.

The license may be denied, immediately revoked or suspended for just cause including but not limited to:

- (a) The correct license fee and/or application costs have not been tendered to the City.
- (b) The applicant for, or holder of, a license, if an individual; or any of the stockholders holding more than ten percent (10%) of the stock of the corporation, any of the officers and directors, if the applicant or license holder is a corporation; or any of the partners, including limited partners, if the applicant or license holder is a partnership; or the operator, manager or any other person principally in charge of the massage establishment, has been convicted of any of the following offenses or convicted of an offense outside the State of Illinois that would have constituted any of the following offenses if committed within the State of Illinois in the past ten (10) years;
 - (1) Any offense involving sexual misconduct with children or other sex offenses, as defined in Chapter 720 of the Illinois Compiled Statutes;

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- (2) A felony that involved the use of a deadly weapon, trafficking narcotic drugs, or violence against another person, including rape or other sexual misconduct, within the ten (10) years immediately preceding the date of application;
 - (3) A misdemeanor or licensing ordinance violation from any jurisdiction, based upon conduct related to the business for which the business license was applied; or
 - (4) A crime of moral turpitude.
- (c) The applicant for, or holder of, a license has knowingly made any false, misleading, or fraudulent statement of fact in the license application, or in any document required by the City in connection with this chapter.
- (d) The applicant, if an individual; or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, is not over the age of eighteen (18) years.
- (e) The application was incomplete or incorrectly completed.
- (f) The establishment would not comply with this chapter and all applicable laws, including but not limited to, both the City of Moline's and/or Rock Island County's building, zoning and health regulations.
- (g) Any person has committed, on the premises of the establishment, an act that would constitute prostitution pursuant to the laws of the State of Illinois, or any offense involving narcotics, dangerous drugs, or gambling, whether or not such person has been convicted of such prostitution, narcotics, dangerous drugs or gambling offense under the laws of the State of Illinois.
- (h) The establishment or any employee of the establishment has not complied with the provisions of this chapter.
- (i) Any violation of the advertising restrictions under this chapter.
- (j) Upon the determination of the health officer that such business is being managed, conducted or maintained without regard for the public health or health of its patrons or without due regard to proper sanitation and hygiene.

SEC. 9-6118. APPEAL OF DENIAL/SUSPENSION/REVOCATION.

- (a) Any person desiring to contest a denial, suspension or revocation of a license under this chapter shall have a right to appeal such decision to the mayor or designee thereof as provided in this section within fourteen (14) days after receipt of the notice of denial, suspension, or revocation by giving such notice in writing and requesting a hearing.
- (b) The mayor or designee thereof, after receipt of the written request for a hearing, shall set a time and date certain for such hearing within a reasonable time.
- (c) The mayor or designee thereof shall give written notice of the time, date and place for hearing to the applicant or permit holder at least five (5) days in advance of the hearing date.
- (d) At the hearing, the applicant or license holder may present and submit evidence and witnesses to rebut the reasons cited for suspending, revoking or denying the license. The appealing party shall have the right to file additional documents, amend the written appeal and appear at such hearing in person, be represented by an attorney and examine and cross-examine witnesses.

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(e) The mayor or designee thereof shall not be bound by the rules of evidence prevailing in the courts of law but shall, in ascertaining the conditions and practices involved in the decision appealed, take into account all reliable, probative and substantial evidence produced at the hearing relating to the denial of the application or revocation of the permit.

(f) The appealing party shall supply at his or her own cost a court reporter.

(g) Within fourteen (14) days after the close of the hearing, the mayor or designee thereof shall render a decision in writing and make it available to the appealing party.

(h) The mayor or designee thereof may reinstate a revoked license, grant the requested license or renewal thereof, or affirm the suspension.

(i) The decision issued pursuant to this section shall be final.

(j) If a hearing is waived, the appealing party shall submit what documentation he or she desires to have the mayor or designee thereof consider with the written appeal, and the mayor or designee thereof shall render a decision within fourteen (14) days of the filing of the written appeal.

SEC. 9-6119. PENALTY.

Any person who violates, neglects, refuses to comply with or exists or participates in any way in the violation of any of the provisions or requirements of this Article VI commits an offense, and each day a violation is continued shall constitute a separate and distinct offense. Any person committing any offense under this Article VI shall be fined as follows: not less than two hundred fifty dollars (\$250.00) for a first offense, not less than five hundred dollars (\$500.00) for a second offense, and not less than seven hundred fifty dollars (\$750.00) for a third or subsequent offense.

Further, the city attorney shall be authorized to obtain an injunction against the operation of any massage establishment or out-call massage service being operated in violation of any provision of this chapter.”

Amendments:

(Ord. No. 2001-12-04; new Chapter 9, “BODY ART CODE,” enacted; 12/11/01)

(Ord. No. 3011-2009; new Sec. 9-2102(l) enacted; 04/21/09)

(Ord. No. 3027-2010; Chapter 9 repealed in its entirety and new Chapter 9, “BODY ART CODE,” enacted; 06/08/10)

(Ord. No. 3013-2017; Chapter 9 repealed in its entirety and new Chapter 9, “BODY ART CODE,” enacted; 08/08/17)

(Ord. No. 3005-2019; Chapter title amended from “BODY ART CODE,” to “BODY ART AND MASSAGE CODE;” enacted 03/12/19)

(Ord. No. 3005-2019; new Art. VI, “MASSAGE ESTABLISHMENTS,” enacted; 03/12/19)