

CHAPTER 11

HEALTH AND SANITATION

Sec. 11.1. UNWHOLESOME FOOD.

Any person who sells or offers to sell for consumption any unwholesome, decaying or spoiled meat, fruit, vegetable or other commodity unfit for food, is guilty of a misdemeanor.
(*Ord. No. 812, Sec. 109; Code 1956, Sec. 76-109*)

Sec. 11.2. OFFENSIVE SUBSTANCES; TRANSPORTING, DEPOSITING.

Any person who hauls along or through any of the streets in the city, any refuse, garbage, offal, decayed meat or vegetables, night soil, or any other filthy substances, giving off offensive odors or stenches, except when the same is contained in such boxes, barrels or other receptacles as will in every case prevent the escape of such odors or stenches and the dropping, scattering or depositing, of any such filthy substances on any street, alley or private property, is guilty of a misdemeanor.
(*Ord. No. 777, Sec. 2; Ord. No. 312, Sec. 105; Code 1956, Sections 57-2, 76-105*)

Sec. 11.3. POISONS -- SETTING OUT.

Any person who places or throws any poison, poisoned food or substances on any street, avenue, alley, public or private grounds, within the city, in such a way that it may endanger the life of any person or animal, is guilty of a misdemeanor. Provided, however, that nothing herein prohibits the setting out of poison in a prudent manner upon one's own premises for the purpose of exterminating vermin or rodents.
(*Ord. No. 777, Sec. 10; Ord. No. 812, Sec. 91; Code 1956, Sections 76-91, 57-10*) [*State Law Ref. Iowa Code Sec. 717.1*]

Sec. 11.4. URINATION AND DEFECATION.

No person shall urinate or defecate onto any sidewalk, street, alley, or other public way or onto the floor, hallway, steps, stairway, doorway, or window of any public or private building or other place open to public view or public use, provided that this section shall not apply to private restrooms or public facilities designated for such purpose.
(*Ord. No. 777, Sec. 14; Code 1956, Sec. 57-14; Ord. No. 2490, Sec. 2, 11-26-74; Ord. No. 3003, Sec. 10, 2-23-88; Ord. No. 4132, Sec. 11.4, 11-27-12; Ord. No. 4508, 08-08-23*)

Sec. 11.5. PENALTIES FOR OFFENSES PERTAINING TO HEALTH AND SANITATION.

(1) A violation of any provision of Chapter 11, Health and Sanitation, shall be a municipal infraction punishable by a penalty of \$50 for a person's first violation and \$100 for each repeat violation.

(2) Alternatively, a violation of any provision of Chapter 11, Health and Sanitation, can be charged by a peace officer of the city as a simple misdemeanor.
(*Ord. No. 2523, Sec. 2, 8-5-75; Ord. No. 3497, Sec. 9, 8-25-98; Ord. No. 3551, 3-7-00; Ord. No. 4140, 2-26-13*) [*State Law Ref. Iowa Code Sec. 137.21*]

Sec. 11.6. BURIAL OF HUMAN BODIES OUTSIDE CEMETERIES.

Burial of human bodies outside legally established cemeteries is prohibited.
(*Ord. No. 3027, Sec. 1, 11-22-88; Ord. No. 4140, 2-26-13*)

Sec. 11.7. HAZARDOUS MATERIALS CLEAN UP.

(1) **Definitions.** For the purpose of this section these words and phrases have the following meanings:

(a) **Hazardous waste** means any substance as defined in section 455B.411, subsection 3, paragraph a, Code of Iowa, and the rules of the Iowa Department of Natural Resources.

(b) **Hazardous substance** means any substance as defined in section 455B.381, subsection 5, of the 1993 Code of Iowa.

(c) **Hazardous conditions** means the same as set out in section 455B.381, subsection 4, of the 1993 Code of Iowa.

(d) **Persons having control over a hazardous substance** means the same as set out in section 455B.381, subsection 7, of the 1993 Code of Iowa.

(e) **Clean up** means the same as set out in section 455B.381, subsection 1, of the 1993 Code of Iowa.

(f) **Treatment** means a method, technique, or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous substance so as to neutralize it or to render the substance non-hazardous, safe for, transport, amendable for recovery, amendable for storage, or to reduce it in volume. Treatment includes any activity or processing designed to change the physical form or chemical composition of hazardous substance to render it non-hazardous.

(2) **Clean Up Required.** Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous waste or substance, so that the hazardous substance or waste or a constituent of the hazardous waste or substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the person having control over a hazardous substance shall cause the condition to be remedied by a clean up, as defined in the preceding section, as rapidly as feasible to an acceptable, safe condition. The cost of clean up shall be borne by the person having control over a hazardous substance. If the person having control over a hazardous substance does not cause the clean up to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may proceed to procure clean up services and bill the person having control over a hazardous substance. If the bill for those services is not paid within thirty (30) days the City shall proceed to obtain payment by all legal means it deems reasonable and appropriate.

(3) **Notification.** The City employee leading the response to a hazardous materials spill shall notify the Story County Sheriff as soon as possible.

(Ord. No. 3271, Sec. 1, 4-26-94; Ord. No. 4140, 2-26-13)

Sec. 11.8. (REPEALED) *(Ord. No. 4510. 09-12-23)*

Sec. 11.9. MASSAGE THERAPY

(1) Purpose.

The State of Iowa licenses massage therapists pursuant to Iowa Code Chapter 152C. Licensed massage therapists and businesses offering massage therapy services perform an important service in addressing the health and well-being of Ames residents. The purpose of this ordinance is to help identify and address businesses that engage in the practice of massage therapy without valid licenses and/or are involved in illegal activities.

(2) Definitions.

For purposes of this Section, unless the context otherwise requires:

(a) "Massage therapist" means a person licensed under Iowa Code Chapter 152C to practice the health care service of the healing art of massage therapy in the City of Ames.

(b) "Massage therapy business" means any business or place of business, including mobile, temporary, and transient businesses, wherein, or on whose behalf, any of the treatments, techniques, or methods of treatment referred to as "massage therapy" are administered, practiced, used, given, advertised or applied.

(c) "Massage therapy" shall be as defined in Iowa Code Chapter 152C.

(d) "Placard" means a poster or sign for public display affixed to a structure to provide notice to the public that the premises are unsafe for entry.

(3) State License Required.

The practice of massage therapy, as defined in Iowa Code Chapter 152C, 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 Iowa Code section 152C.3.

(4) Display of License and Photograph.

Each massage therapist must prominently display in an area in plain sight of customers of the massage therapy business, a copy of the massage therapist’s valid massage therapy license and a color photograph of the massage therapist whose license is displayed. The color photograph shall measure no smaller than six (6) square inches (for example, a 2”x3” photograph), with the face of the massage therapist clearly recognizable and occupying the majority of the photograph.

Each massage therapist must be in possession of their license at all times while doing business in the city and must, upon request of a prospective customer or City official, exhibit the license as evidence of compliance with all requirements of this Section.

(5) Manager Designated.

An individual, who is a resident of the state of Iowa, must be designated to act as the manager for the massage therapy business. The name and position of the manager must be prominently displayed near the displayed massage therapy licenses. The manager shall consent to serve as an agent for the service of notices and other processes related to the massage therapy business. The manager shall remain responsible for the conduct of the massage therapy business until another person has been designated as manager in writing. This manager designation requirement shall not apply to a massage therapy business that has only one massage therapist.

(6) Information Required.

Upon request by City staff, a massage business shall immediately produce documentation including the following information:

- (a) Name of the business;
- (b) Name, email address, telephone number, and residential address of the manager of the business;
- (c) Names of all licensed massage therapists (LMTs) employed or contracted by the business and their State license numbers;
- (d) Names and addresses of all other persons who work on the business premises whether employees or independent contractors of the business along with a description of the work performed;
- (e) Name(s) of the business owner(s);
- (f) Name(s) and mailing address(es) of all individuals who have an ownership interest in the business; and
- (g) Name(s) of any commercial tenant(s) leasing the business premises.

To confirm the identity of the LMT, a government issued photo identification card of the LMT and a copy of their valid and current license must be provided to City staff upon request.

(7) Hours of Operation.

No person shall be engaged in the practice of massage therapy between the hours of midnight and 5:00 a.m. unless such therapy takes place:

- (a) in a licensed medical facility;
- (b) in a licensed hospice facility;
- (c) under the specific direction or supervision of a person described in Iowa Code section 152C.9(1); or
- (d) with written approval from the Chief of Police or designee.

(8) Special provisions.

(a) Upon a determination by the police department that a massage therapy business has employed or otherwise contracts with an unlicensed massage therapist, or is otherwise in violation of this section, the Chief of Police, or designee, is empowered to place placards in one or more highly noticeable locations at the massage therapy business facility. The placard(s) shall state: “Unsafe to Enter; Unlicensed Massage Therapy Must Cease and may be subject to criminal and/or civil penalty pursuant to Ames Municipal Code section 11.9.” The placard(s) must remain posted until a valid state license is obtained, or other legal use has been established and

demonstrated to the police department. This action may be appealed pursuant to Ames Municipal Code section 11.9(10).

(b) If the City has probable cause that prostitution, as defined by Iowa Code Chapter 725, or Human Trafficking, as defined by Iowa Code Chapter 710, has occurred at a property providing Massage Therapy, the police department may placard the property. This action may be appealed pursuant to Ames Municipal Code section 11.9(10).

(c) No person shall remove the placard posted pursuant to subsection (a) or subsection (b) of this section without approval of the Chief of Police or designee.

(d) No person, whether individually or in connection with one or more persons or as principal, agent, or accessory, shall continue to offer “massage therapy” services at the placarded location after a massage therapy business has been placarded as unsafe for entry unless the Chief of Police or designee has approved removal of the placard.

(9) Penalties.

A violation under this Section is declared to be a municipal infraction punishable by a civil penalty of \$500 for a person’s first violation and by a civil penalty of \$750 for each repeat violation. Alternatively, violation of this Section may be charged by a peace officer of the City as a simple misdemeanor.

(10) Appeal of placard.

Should a person or business be placarded pursuant to subsection (8) above, the person or business may appeal the placarding by filing a written notice of appeal to the City Manager within thirty days of the date of the placarding. The written appeal shall state the grounds of the appeal.

(a) Upon receiving a notice of appeal, a hearing shall be convened within ten business days unless both parties agree to an extension of the deadline, chaired by the City Manager or designee, to receive any testimony or other evidence that is deemed appropriate concerning the placarding.

(b) When an appeal has been filed, the Police Department shall make a reasonable effort to notify any persons who would have had direct involvement in the situation which led to the placarding.

(c) The appeal shall be heard by a committee appointed by the City Manager and consisting of a minimum of three people, including a member of the public, a licensed massage therapist, and the Director of Planning and Housing or their designee.

(d) Following such hearing, the Committee may:

(i) uphold the placarding; or

(ii) modify or reverse the placarding, after which the Chief of Police shall take such action as is necessary to carry out the decision of the Committee.

The decision of the Committee and the reasons for it shall be summarized in writing and provided to the person who filed the appeal.

(Ord. No. 4403;12-17-19)