

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DEER PARK, AMENDING THE CITY'S CODE OF ORDINANCES BY CREATING A NEW ARTICLE AND SECTION IN CHAPTER 22-BUSINESS, ARTICLE VIII - MASSAGE BUSINESS REGULATIONS, ADDING NEW SECTIONS 22-300 THROUGH 22-338; ADDING A PERMIT FEE FOR MASSAGE BUSINESS IN APPENDIX "B", CHAPTER 22, SECTION 22-320, PROVIDING FOR A PENALTY AS PROVIDED BY SECTION 1-14 OF THE CODE OF ORDINANCES; PROVIDING FOR EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER PARK:

WHEREAS, the City of Deer Park finds that there have been repeated police reports related to some massage businesses within the city limits and that operation of massage businesses affects the health, safety and welfare of the citizens of the City of Deer Park;

WHEREAS, the City Council has heard evidence of the necessity of the proposed massage business regulations and finds that the regulations are necessary to effectively regulate massage businesses.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF DEER PARK, TEXAS:

Section 1. Chapter 22 – Business is hereby revised by adding a new Article VIII, Massage Business Regulations, creating Sections 22-300 through Section 22-338.

Sec. 22-300. Definitions.

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning and application of words and phrases used in this article.

Employee shall mean any person over 18 years of age, other than a masseur, who renders any service in connection with the operation of a massage business and who receives compensation from the operator of the business or from patrons.

Massage means any method of treating the superficial parts of a patron for medical, hygienic, exercise or relaxation purposes by rubbing, stroking, kneading, tapping, pounding, vibrating or stimulating with the hands, feet or any instrument.

Masseur means any person who engages in the practice of massage as herein defined and who is licensed therefor by the state. The use of the masculine gender in this article shall include in all cases the feminine gender as well.

Massage Business does not include massages performed under a medical doctor or licensed chiropractor's onsite supervision.

Patron means any person who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

Sec. 22-301. Penalty.

Any person who shall intentionally or knowingly violate any provision of this article shall be deemed to be guilty of a misdemeanor and shall upon conviction be punished by a fine not to exceed \$2,000.00.

Secs. 22-302—22-314. Reserved.

DIVISION 2. PERMITS

Sec. 22-315. Business permit required.

No person shall engage in or carry out the business of providing massages unless he has a valid massage business permit issued by the City of Deer Park pursuant to the provisions of this article for each and every separate office or place of business conducted by such person.

Sec. 22-316. Application for permit.

Any person desiring a massage business permit shall file a written application with the Director of Planning and Development/ City engineer on a form to be furnished by the planning and development department. The applicant shall accompany the application with a tender of the permit fee required by this article, and shall, in addition, furnish the following:

- (1) The type of ownership of the business, i.e. whether individual, partnership, corporation or otherwise;
- (2) The name, style and designation under which the business or practice is to be conducted;
- (3) The business address and all telephone numbers where the business is to be conducted;
- (4) Such other information, identification and physical examination of the person as shall be deemed necessary by the Director of Planning and Development / City engineer or the Chief of Police to discover the truth of the matters hereinabove required to be set forth in the application;
- (5) Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit;
- (6) Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed in the city.

Sec. 22-317. Investigation by the “Director of Planning and Development/City Engineer” and the Chief of Police.

Upon receiving the application for a massage business permit, the Director of Planning and Development/ City Engineer shall forward the application to the Chief of Police to conduct an investigation into the applicant's moral character and personal and criminal history, as well as that of any individuals who are or who are proposed to be employees of the applicant. The Chief of Police may in his discretion require a personal interview of the applicant, and such further information, identification and physical examination of the person as shall bear on the investigation. In addition, the following information shall be provided to the Chief of Police, as follows:

- (1) A complete list of the names and the residence addresses of all masseurs and employees in the business and the name and residence address of the manager or other person principally in charge of the operation of the business, as well as copies of all current licenses issued by department of state health services for each masseur to be employed at any permitted location.

- (2) The following personal information concerning the applicant, if an individual; and concerning each stockholder holding more than ten percent of the stock of the corporation, and each officer and director, if the applicant is a corporation; and concerning the partners, including limited partners, if the applicant is a partnership; and the holder of any lien, of any nature, upon the business and/or the equipment used therein; and concerning the manager or other person principally in charge of the operation of the business:
 - a. The names, complete residence addresses and residence telephone numbers;
 - b. The two previous addresses immediately prior to the present address of the applicant;
 - c. Written proof of age;
 - d. Height, weight, color of hair and eyes, and sex;
 - e. Two front face portrait photographs taken within 30 days of the date of application and at least two by two inches in size;
 - f. The massage or similar business history and experience ten years prior to the date of application, including, but not limited to, whether or not such person in previously operating in this or another city or state under license or permit has had such license or permit denied, revoked or suspended and the reason therefor, and the business activities or occupations subsequent to such action of denial, suspension or revocation;
 - g. All criminal arrests other than misdemeanor traffic violations, fully disclosing the jurisdiction in which arrested and the disposition thereof;
 - h. A complete set of fingerprints taken and to be retained on file by the Chief of Police or his authorized representatives;
- (3) The names and addresses of three adult residents of Harris County who will serve as character references. The references must be persons other than relatives and business associates;
- (b) In addition to the requirements of subsection (a) of this section, the Director of Planning and Development/City Engineer shall cause to be conducted an investigation of the premises where the massage business is to be carried on, for the purposes of assuring that such premises comply with all sanitation requirements as set forth in this article and by the state, and with the regulations of public health, safety and welfare.

Sec. 22-318. Issuance of massage business permits; appeal of denial of permit application.

- (a) The Director of Planning and Development/City engineer shall issue a massage business permit within 30 days of receipt of the application unless he finds that:
 - (1) The correct permit fee has not been tendered to the city, and in the case of check or bank draft, honored with payment upon presentation;
 - (2) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the city's building, zoning and health regulations;
 - (3) The applicant, if an individual, or any of the stockholders holding more than ten percent of the stock of the corporation, 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, or the holder of any lien of any nature on the business and/or equipment used therein; and the manager or other person principally in charge of the operation and affairs of the business, or any employees have been convicted of a felony or misdemeanor involving moral turpitude, or was placed on deferred adjudication for such offense, unless such conviction occurred at least five years prior to the date of the application;
 - (4) The applicant has knowingly made any false, misleading or fraudulent statements of fact in the permit application or in any document required by the city in conjunction therewith;

- (5) The applicant has had a massage business, masseur or other similar permit or license denied, revoked or suspended by the city or any other state or local agency within five years prior to the date of application;
 - (6) 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 18 years.
 - (7) Before any permit shall be issued under this article by the Director of Planning and Development/ City engineer, the Chief of Police shall first sign his approval for the application.
- (b) Any applicant denied a permit shall have the right of appeal to city manager. Such appeal shall be taken by filing with the city secretary within ten days after notice of the denial has been mailed to such person's address as set forth in the application, a written statement setting forth fully the grounds for the appeal. The city secretary shall provide for a city manager hearing on such appeal at the earliest convenient time, and shall notify the appellant and Director of Planning and Development/City Engineer of the date and time of such city manager hearing. Notice of the time and date of the hearing, setting forth the specific grounds upon which the Director of Planning and Development/City Engineer's decision is based, shall be given in writing by the city secretary through certified United States mail to the applicant at their last known address at least five days prior to the date set for such hearing. The city manager either sustains the action of the Director of Planning and Development/City Engineer or issues the permit.

Sec. 22-319. Display of permits.

The massage business permittee shall display their permit in an open and conspicuous place that is observable by members of the general public, on the premises of the massage business.

Sec. 22-320. Appendix B Application and Fees.

The permit fee for a massage business shall be set in Appendix B, Chapter 22, Section 22-320.

Sec. 22-321. Additional locations.

Should any massage business have more than one location where the massage services are to be provided, a separate permit, issued in accordance with this article, is required for each massage business location.

Sec. 22-322. Return of fee.

No portion of any fee collected under this article shall be returned after a permit has been issued.

Sec. 22-323. Suspension and revocation of permits.

- (a) A massage business permit may be revoked or suspended in any case where any of the provisions of this article are violated, or where any licensee or employee of the licensee is engaged in any conduct which violates any of the state laws or city ordinances at the permittee's place of business, including, but not limited to, working without a state license, engaging in sexual contact with customers, or agreement to engage in sexual contact with customers or working in the nude, and the permittee has actual or constructive knowledge thereof by due diligence. The revocation proceedings shall be as prescribed by subsection (b) of this section.
- (b) A massage business permit may be revoked or suspended by the city manager after notice and hearing for any cause set forth in this section. The Director of Planning and Development/City engineer or his authorized agent shall initiate such proceedings by petition to the city secretary in writing setting forth specifically the grounds for revocation or suspension, and if a suspension, the length of time for which such suspension is

requested. A copy of such petition shall be mailed to the last known address of the permit holder. Notice of the time and date of the hearing, again setting forth the specific grounds upon which the Director of Planning and Development /City engineer's petition is based, shall be given in writing by the city secretary through certified United States mail to the permittee at his last known address at least five days prior to the date set for such hearing. The city manager determines whether or not such permit shall be revoked or suspended, and such action shall be final and conclusive.

Sec. 22-324. Transfer of permit prohibited.

No massage business permit is transferable, severable or divisible, and such authority as a permit confers shall be conferred only upon the permittee named therein.

Sec. 22-325. Notice to city of changes in employment.

Every permitted massage business shall immediately inform the city of any changes to the list provided in accordance with section 22-317 of this article concerning the names and the residence addresses of all masseurs and employees in the business and the name and residence address of the manager or other person principally in charge of the operation of the business.

Secs. 22-326—22-329. Reserved.

DIVISION 3. OPERATION REGULATIONS

Sec. 22-330. Hours.

No massage business shall be kept open for any purpose between the hours of 8:00 p.m. and 8:00 a.m. on any day of the week.

Sec. 22-331. Alcoholic beverages prohibited.

No person shall sell, give, dispense, provide or keep or cause to be sold, given, dispensed, provided or kept, any alcoholic beverage on the premises of any massage business.

Sec. 22-332. Residential or dwelling use prohibited; entrances, exits.

At no time shall the premises of a massage business serve as or provide a residence or dwelling. In addition, no massage business shall have any entrance or any exit way providing a direct passageway to any residence or living quarters.

Sec. 22-333. Access; open to public; transparent windows.

- (a) All massage establishments operating under the authority of this chapter are declared to be public places, and shall not, during business hours, have the doors to the entrances or exits of such establishments locked or obstructed in any way so as to prevent free ingress and egress of persons; provided, however, such doors may be closed.
- (b) A massage business is prohibited from operating as a private, member only enterprise.
- (c) All customer access to the massage business must occur at the massage business' front door.
- (d) Outside windows of a massage business shall be transparent and the view from the outside of the establishment into the lobby/waiting area shall be unobstructed.

- (e) Any law enforcement officer may inspect a massage business establishment at any time during business hours to determine whether the establishment is in compliance with this chapter and state law.

Sec. 22-334. Sanitation.

- (a) All premises used pursuant to this chapter shall be periodically inspected during regular business hours by the Director of Planning and Development/City engineer or his authorized representative for safety of structure and adequacy of plumbing ventilation, heating and illumination.
- (b) Floors shall be free from any accumulation of dust, dirt and refuse. Well-marked toilet and handwashing facilities for permittees, employees and patrons shall be provided. All walls, ceilings, windows and doors shall be free of dust, dirt, refuse and mold. In high humidity areas, including toilet rooms, shower rooms, steam rooms, locker rooms, and other such rooms, the walls, ceilings and floors shall be constructed or covered with a material that is smooth, nonabsorbent and easily cleaned.

Sec. 22-335. Sheets, towels, etc.

Towels, cloths and sheets shall not be used for more than one patron. Heavy white paper may be substituted for sheets provided that such paper is changed for every patron. Soiled linens and towels shall be stored in a clearly marked receptacle and shall not be reused prior to laundering.

Sec. 22-336. Animals prohibited.

No animals shall be permitted within a massage business at any time.

Sec. 22-337. Equipment.

All equipment used for the treatment of patrons at establishments regulated by this article shall be kept in a clean and sanitary condition, and the equipment shall be kept in a good and safe state of repair at all times.

Sec. 22-338. Signage required.

All massage business establishment shall erect and display in a conspicuous place in areas accessible by employees a sign advising the reader of the national human trafficking hotline, 9-1-1 emergency services, and the phone number to the Deer Park Police Department.

Section 2. Appendix B, Chapter 22, is hereby revised to include the following fee for service.

Chapter 22, Business, Sec. 22-320. Massage Business Fee - The permit fee for a massage business shall be \$75.00 per application.

Section 3. Penalty. Any person who shall violate any provision of this Ordinance shall be guilty of a misdemeanor and subject to a fine as provided in Section 1-14 of the City's Code of Ordinances.

Section 4. Publication and Effective Date. This ordinance shall be effective upon adoption and publication of this ordinance or a caption that summarizes the purpose of this ordinance and the penalty for violating this ordinance published at least one time within ten days after final passage in the City's official newspaper per City Charter, Sec. 2.06(g)(A).

Section 5. Adoption. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551 of the Government Code of the State of Texas.

In accordance with Article VIII, Section 1 of the City Charter, this Ordinance was introduced before the City Council of the City of Deer Park, Texas, **passed, approved and adopted** on this the ___ day of _____, 2024 by a vote of _____ "Ayes" and _____ "Noes".

MAYOR

ATTEST:

City Secretary

APPROVED:

City Attorney