

ORDINANCE NO. 22-2254

AN ORDINANCE OF THE CITY OF LAKE JACKSON, TEXAS, AMENDING CHAPTER 50 HEALTH AND SAFETY TO ADD DIVISION 5: MASSAGE ESTABLISHMENTS TO THE CODE OF ORDINANCES TO REGULATE MASSAGE ESTABLISHMENTS AN ALLOW FOR ADMINISTRATIVE INSPECTIONS; PROVIDING THAT ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH SHALL BE REPEALED TO THE EXTENT OF THE CONFLICT ONLY; PROVIDING FOR A PENALTY; AND PROVIDING A SAVINGS CLAUSE

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LAKE JACKSON, TEXAS:

Section 1: That Ch. 50 shall be amended to add the following:

DIVISION 5. Massage Establishments

50-76. Definitions

Massage establishment means a place of business that advertises or offers massage therapy or other massage services, including any service described by a derivation of the terms “massage therapy” or “other message services.”

Massage therapist means any person who practices or administers massage services to a client for compensation, including, but not limited to, massage therapist, therapeutic massage practitioner, massage technician, masseur, masseuse, myotherapist, body massager, body rubber, Asian body work, reflexologist, or any derivation of those titles.

Massage therapy means the manipulation of soft tissue by hand or through a mechanical or electrical apparatus for the purpose of body massage and includes, but is not limited to, stroking, kneading, percussion, compression, vibration, friction, nerve strikes, and Swedish Gymnastics.

Semi-nude means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

50-77. Applicability

This article does not apply to a person licensed as a physician, chiropractor, occupation therapist, physical therapist, nurse, cosmetologist, or athletic trainer or as a member of a similar profession subject to state licensing while the person is practicing within the scope of the license.

50-78. License

- (a.) A massage establishment must be licensed in accordance with Ch. 455 of the Texas Occupations Code. The massage establishment must display the license in a place clearly visible to the public.

- (b.) A person that practices massage therapy as a solo practitioner is not required to hold a license as a massage establishment.
- (c.) Any person providing massage therapy must be licensed in accordance with Ch. 455 of the Texas Occupations Code. The license must have a photo of the massage therapist attached to the license and be posted in a place clearly visible to the public.

50-79. Inspection

A peace officer or code enforcement officer may enter the premises of a massage establishment for periodic administrative inspections to ensure compliance with this article. The administrative inspections will occur during the massage establishment's business hours.

50-80. Operations

- (a) A massage establishment may not:
 - (1) Employ a person who is not a US citizen or a legal permanent resident;
 - (2) Employ a minor;
 - (3) Allow a nude or semi-nude person to provide message therapy;
 - (4) Allow a person to reside on the premises; or
 - (5) Have any entrance or any exit providing a direct passageway to any other type of business or residence.
 - a. Massage establishments that occupy an interior unit in a multi-unit building may have an entrance or exit that leads to the main business occupancy of the building.
- (b) A message establishment must:
 - (1) Post the state required victims of human trafficking notice in a place clearly visible to the public;
 - (2) Keep all cubicles, rooms, booths, or any area where massage services are provided unlocked;
 - (3) Maintain a clear and unobstructed view of the reception area from outside the establishment unless the establishment occupies an interior unit in a multi-unit building; and
 - (4) Operate only between the hours of 5 a.m. and 10 p.m.

50-81. Cleanliness

- (a.) All equipment used for the treatment of patrons at establishments regulated by this chapter shall be kept in a clean and sanitary condition, and the equipment shall be kept in good working order.
- (b.) Floors shall be free from any accumulation of dust, dirt, and refuse.
- (c.) All walls, ceilings, windows, and doors shall be free of dust, dirt, and refuse.
- (d.) Each location shall provide hand washing facilities, including hot and cold running water, located near or adjacent to the restrooms. Hot air blowers or suitable holders for sanitary towels and dispensers for soap shall be provided and be adequately supplied at all times.
- (e.) All trash containers must be emptied daily and kept clean by washing or using plastic

liners.

- (f.) Disposable sheets, towels, or protectors which cannot be disinfected will be disposed of in a waste receptacle immediately after use.
- (g.) Furniture, equipment, and other fixtures shall be of washable material and kept clean and in good repair. Electrical equipment shall be kept sanitary and safe at all times.
- (h.) Clean linens shall be used on each client.
- (i.) After linens have been used once, they must be deposited in a fully closed or partially closed container and shall not be used again until properly washed and disinfected in chlorinated bleach and hot water.
- (j.) Lubricants, including oils, must be kept in closed containers.

50-82. Cumulative effect; effect of state law.

The provisions of this article are cumulative of the applicable state law and regulations concerning massage establishments. To the extent there exists any conflict between the provisions of this article and applicable state law, the state law provision shall prevail to the extent of the conflict.

50-83. Offenses

Any violation of this ordinance is a Class C health and safety offense, meaning that the maximum fine is \$2,000 per violation per day of occurrence. Employees, managers, business owners, and/or landlords will be responsible for violations.

Section 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict only.

Section 3: A violation of this ordinance shall be a Class C misdemeanor and the penalty for violating this ordinance shall be as provided for in Sec. 1-5 of the Code of Ordinances of the City of Lake Jackson.

Section 4: If any part or portion of this ordinance shall be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any remaining portions or provisions of this ordinance.

Section 5: The City Secretary shall publish the caption of this ordinance within ten (10) days of final passage in the official newspaper of the City.

PASSED on the first reading this 19th day of September 2022.

PASSED AND APPROVED on second reading this 3rd day of October, 2022.

Gerald Roznovsky, Mayor

ATTEST:

Sally Villarreal, City Secretary

APPROVED AS TO FORM:

Sherri Russell, City Attorney