

ORDINANCE NO. 19-_____

AN ORDINANCE OF THE CITY OF WEBSTER, AMENDING THE CODE OF ORDINANCES, CHAPTER 98 (ZONING) TO REGULATE MASSAGE ESTABLISHMENTS WITHIN THE CITY OF WEBSTER, TEXAS, FINDING THAT ALL PROPER NOTICES HAVE BEEN GIVEN AND PUBLIC HEARINGS HELD; REPEALING INCONSISTENT ORDINANCES; CONTAINING A SAVINGS CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

WHEREAS, the City of Webster has experienced an increase in the number of Massage Establishments over the past few years; and

WHEREAS, this proposed amendment to the Zoning Ordinance should assist law enforcement in their quest to stop illegal activities within these establishments that have been occurring more frequently in Webster and surrounding cities; and

WHEREAS, it is necessary to amend the City of Webster Code of Ordinances to provide for a definition for Massage Establishments seeking to operate within the City of Webster; and

WHEREAS, it is also necessary to amend the Code of Ordinances to provide for a permitting process for Massage Establishments seeking to operate in the City of Webster; and

WHEREAS, it is necessary to regulate the locations of Massage Establishments to ensure that they are not located within 2,000 feet of a Public School or an existing Massage Establishment; and

WHEREAS, it is now the desire of the Mayor and City Council to amend the City of Webster, Texas Code of Ordinances as detailed below;

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

SECTION 1: That Chapter 98, Zoning, of the Code of Ordinances, City of Webster, Texas, is hereby amended as follows:

~~Strikethrough~~ = Text to be deleted

Underline = Text to be added

All other text to remain as-is

I. Proposed definition for Massage Establishments to be added to the Zoning Ordinance:

Chapter 98 (ZONING)

Sec. 98-4. - Definitions.

Massage Establishment means a place of business in which massage therapy is practiced by a massage therapist, as defined by Texas law. “Massage therapy,” as a health care service, means

the manipulation of soft tissue for therapeutic purposes. The term, includes, but is not limited to, effleurage (stroking), petrissage (kneading), tapotement (percussion), compression vibration, friction, nerve strokes, and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body massage. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, tub shower, or cabinet baths. Equivalent terms for massage therapy are “massage,” “therapeutic massage,” “massage technology,” “myotherapy,” or any derivation of those terms. The terms “therapy” and “therapeutic” do not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

II. Below is an excerpt from the Zoning Ordinance regarding “Schedule of Uses” whereby Massage Establishments will appear in the table:

ARTICLE IV. - SCHEDULE OF USES

Sec. 98-71. - Table of uses.

TABLE 1. SCHEDULE OF PERMITTED USES

P—Permitted by right

S—Permitted with Special Use Permit only

PSR—Permitted, except that a Special Use Permit is required when the subject property is within 200 feet of a lot which is used or zoned for residential purposes.

S2+—Permitted with special use permit only. Second floor and above only.

Permitted uses in a Planned Development (PD) district shall be identified in the ordinance that establishes that particular district.

(1) See Section 98-72 for specific distance separation requirements.

Figure 1: Proposed Regulations for Massage Establishments

Uses	Districts									
	R-1	R-1A	R-2	O	C-1	C-2	C-3	M-1	M-2	NP
Massage Establishments					S	S	S	S	S	S

The proposed regulations will allow massage establishments to locate in the C-1 (First Commercial District), C-2 (Second Commercial District), C-3 (Third Commercial District), M-1 (First Industrial District), M-2 (Second Industrial District) and NP (NASA Parkway) zoning districts. This proposed

amendment creates a massage establishment definition in Section 98-4 and modifies the allowable zoning districts for massage establishments in which to locate. The amended Schedule of Uses table will require a prospective massage establishment to acquire a Special Use Permit before locating the business or establishment within the City of Webster.

III. Below is the section in the Zoning Ordinance which outlines the Special Use Permit requirements:

Sec. 98-72. - Specific use requirements.

LOCATION RESTRICTIONS: The following distance separation requirements shall be measured in a straight line in all directions from the building; unless the existing use is located in a multi-tenant building, then a straight line measurement in all directions shall be measured from the tenant space or in the case of a public school this measurement shall be from the parcel(s) of the school (including play areas).

- (1) *Bail bonds:* A new bail bonds service shall not be located within 2,000 feet from a public school or an established bail bonds service.
- (2) *Credit access business:* A new credit access business shall not be located within 2,000 feet of a public school or an established credit access business.
- (3) *Headshop:* A new headshop shall not be located within 2,000 feet from a public school or an established headshop business.
- (4) *Precious metal dealer (gold exchange):* A new precious metal dealer (gold exchange) shall not be located within 2,000 feet of a public school or an established precious metal dealer.
- (5) *Tattoo shop:* A new tattoo shop business shall not be located within 2,000 feet of a public school or an established tattoo shop.
- (6) *Smoke shop:* A new smoke shop shall not be located within 2,000 feet of a public school or an established smoke shop.
- (7) *Mini-storage lots, enclosed:* Any new mini-storage lots, enclosed, shall not be located within 2,000 feet of an established mini-storage lot, enclosed, establishment. The distance separation shall be calculated from nearest property line of each business measured in a direct line.

*(8) **Massage Establishment:** a new massage establishment described by definition contained in Sec. 98-4, shall not be located within 2,000-feet from a public school or an established massage business:*

- a. **Additional Services.** Any existing business or establishment pursuing the addition of services to perform massages shall comply with the 2,000- foot distance separation requirement from a public school or an established massage business.
- b. **Licensee.** The person to whom a license has been issued to own or operate a massage establishment as defined herein.
 - 1. **Massage Therapist.** An individual who holds a valid license issued by the State of Texas to practice or perform massage therapy. All massage therapists must have a valid license issued by the State of Texas.
- c. **Inspection.** City Law Enforcement personnel, Fire Marshal and Chief Building Official during business hours and at other reasonable times to ensure compliance with this ordinance, may inspect the premises of each massage establishment. The refusal to permit such an inspection shall be sufficient reason for revocation of a massage establishment license by the aforementioned City representatives.
- d. **Revocation.** Any massage establishment which has been issued a Special Use Permit under this article may be revoked by the City Manager or his/her designee for a violation of this chapter, any ordinance of the City, or any law of the state.
- e. **Nontransferable Permits.** No person shall operate a massage establishment under the authority of an approved Special Use Permit by the Mayor and City Council at any place other than the address of the massage establishment stated in the application for the Special Use Permit.

SECTION 2: It is hereby found and declared that the City has complied with all of the statutory requirements concerning notice of the proposed amendment.

SECTION 3: If any provision, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances, shall for any reason be held unconstitutional, void, or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances and to this end all provisions of this ordinance are declared to be severable.

SECTION 4: All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

SECTION 5: This Ordinance shall become effective after its approval and adoption upon second and final reading.

Ordinance No. 19-_____

PASSED AND APPROVED ON first reading this 6th day of August 2019.

PASSED, APPROVED AND ADOPTED on the second and final reading this 20th day of August 2019.

CITY OF WEBSTER, TEXAS

Donna Rogers, Mayor

ATTEST:

Marisela Garcia, TRMC
Acting City Secretary