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ORDINANCE NO. 1098

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, ESTABLISHING RULES AND REGULATIONS GOVERNING THE MASSAGE PARLORS AND MASSAGE ESTABLISHMENTS; PROVIDING CERTAIN DEFINITIONS; PROVIDING CERTAIN EXCEPTIONS; PROVIDING MANNER OF APPEAL; ESTABLISHING FEES FOR AND PROVIDING FOR THE LICENSING OF AND REVOCATION OF THE LICENSE OF SUCH ESTABLISHMENTS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00); AND DECLARING AN EMERGENCY.

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

SECTION 1. In order to protect the health and welfare of the inhabitants of the City of Mesquite, to prevent crime and promote public order, the following rules, requirements and definitions are hereby adopted for the establishment and maintenance of massage parlors in the City.

1. Definitions: For the purposes of this Ordinance the following words shall have the meaning respectively ascribed thereto except where context of usage compels a different meaning.

Massage Establishment or Massage Parlor - Shall mean any building, room, place, or establishment other than regularly licensed hospitals, medical or chiropractor clinics, barber shops or beauty shops licensed by the State and offering massage in connection with such barber or beauty shop license or registered therapists who treat patients referred by and under direction of licensed physicians, wherein manipulated exercises or massages are practiced upon the human body by anyone other than a licensed physician or under the direction thereof, with or without the aid of mechanical, therapeutic, or bathing devices. Such term shall include Turkish baths and similar establishments. Such term shall also embrace establishments wherein for gain or profit any form of treatment or conditioning of the human

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body is offered by other than licensed medical practitioners wherein the human body is in an unclothed or exposed condition.

Massage - Shall mean and include any process consisting of kneading, rubbing or otherwise manipulating or touching the skin of the body of a human being, either by hand, instruments, or apparatus, but shall not include massage by duly licensed physician or medical practitioner or massage of the face or scalp by duly licensed beauty shops or barber shops.

2. License: No person shall establish or operate a massage parlor or establishment in the City of Mesquite without having a current license from the City therefor.
3. License Requirements: In order to obtain a license for a massage parlor, the applicant shall make application with the City Secretary by original and five copies, one of which shall be routed to the City Health Inspector, Chief of Police, Chief Building Inspector and City Planner for review.

Such application shall contain the name of the owner of the proposed establishment, the position or title of the person signing the application, if other than the owner, the name of the person to be in charge, address of the establishment with a description of the services to be offered, together with such other information as may be required to process such application.

Upon investigation and review by the respective parties, the application shall be forwarded to the City Manager with the recommendations of said parties.

- A. The City Health Inspector shall make recommendations for approval or disapproval of the proposed facilities as same may affect the public health.

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- B. The Chief of Police shall recommend approval or disapproval based upon his investigation of the character and reputation of the applicant as a law abiding person and shall consider past operations, if any, convictions of felonies or crimes involving moral turpitude and connections with criminal elements.
  - C. The Building Inspector shall determine the compliance with the Ordinances of the City relating to the building and physical facilities.
  - D. The City Planner shall determine the compliance with zoning regulations. For the purpose of same such establishments shall be deemed to be similar to activities designed to permit exercise such as skating, bowling and miniature golf presently listed under Article XI of the Zoning Ordinance.
4. Duration of License: License issued hereunder shall be for one year or until revoked.
5. Approval or Disapproval of License: When the City Manager has received the recommendations from the City Health Inspector, Chief of Police, Chief Building Inspector and City Planner, he shall review such application together with such recommendations as may be furnished and shall approve such application or disapprove same with written notation of his reasons for disapproval.

Upon disapproval, the applicant may make such corrections as noted and request approval, request withdrawal and refund of license fee, or give notice of appeal from the City Manager's decision.

6. Right of Appeal: In the event the applicant is dissatisfied with the decision of the City Manager, he may give notice of appeal to the City Council within ten (10) days of notice of such decision. Such appeal shall be heard by the City Council within thirty (30) days from date of such notice unless a later date is agreed upon by applicant.

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Upon hearing the Council may reverse the decision of the City Manager in whole or in part or may affirm such decision.

An applicant may appeal such decision to the District Court within thirty (30) days but such appeal shall be upon the substantial evidence rule.

7. Issuance of License: Upon approval by the City Manager or successful appeal, and payment of all required fees, the City Secretary shall issue a license which shall be displayed at all times.
8. Revocation: For violation of any of the requirements of this ordinance, the City Manager may upon three (3) days notice to Licensee revoke the license granted hereunder. The same rights of appeal shall exist upon revocation as upon disapproval of the original application.
9. Obligations of Licensee: A person licensed hereunder, by acceptance of such license authorizes the City and its designated personnel to make inspection of the premises, facilities, manner of operation and character of any operator or employee.
10. Licensed Employees: Before any person shall be allowed to perform any service at such establishment, whether as an employee or operator, such individual shall be licensed by the City. Such license shall be upon investigation by the Police Department and Environmental Health to the end that such person be of good character and free from communicable disease.
11. Persons of Opposite Sex: No person shall administer a massage to a person of the opposite sex or be present when a person of the opposite sex is unclothed or whose body is unseemly exposed. Separate facilities or separate hours shall be maintained for members of the opposite sex and no mingling shall be allowed.

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12. The holder of a license hereunder shall comply with all ordinances and requirements of the City of Mesquite, and all laws of the State of Texas.
13. Fees: License fees for each establishment shall be Two Hundred Fifty Dollars (\$250.00) per annum and must accompany the original application. The fee will not be refunded after a license is issued. Such license shall be non-transferrable.

License fees for individual employees and operators shall be Ten Dollars (\$10.00) annually and shall not include cost of medical examination.

14. Hours of Operation: Hours of operation shall be between 8:00 a.m. and 10:00 p.m., Monday through Saturday.

SECTION 2. That should any paragraph, sentence, subdivision, clause, phrase, section or provision of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be unconstitutional, illegal or invalid and shall not affect the validity of any other provision of the Code of the City of Mesquite.

SECTION 3. That any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction in corporation court shall be subject to a fine not to exceed Two Hundred Dollars (\$200.00) for each offense.

SECTION 4. The fact that the City of Mesquite has no adequate ordinance regulating the establishment and operation of massage parlors in the City creates an urgency and an emergency and in the preservation of the public health, safety and welfare requires that this ordinance shall take effect immediately from and after its passage and the publication of the caption as the law and Charter in such cases provide.

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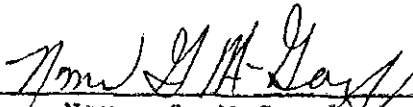
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DULY PASSED AND APPROVED by the City Council of the City  
of Mesquite, Texas, on the 5 day of March, A.D., 1973.

  
George Boyce  
Mayor

ATTEST:

  
Norma G. McGaughy  
City Secretary

APPROVED AS TO FORM:

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Elland Archer  
City Attorney