

O-2022-8

AN ORDINANCE

AMENDING TITLE 5, CHAPTER 52, OF THE MUNICIPAL CODE OF THE CITY OF LAKEWOOD, COLORADO, IN CONNECTION WITH THE LICENSURE OF MASSAGE BUSINESSES AND MASSAGE BUSINESS MANAGERS

WHEREAS, the City of Lakewood ("Lakewood" or "City") is a home rule municipality organized under Article XX of the Colorado Constitution and the authority of the Home Rule Charter for the City of Lakewood (Charter);

WHEREAS, Sections 1.2 and 2.1 of the Charter vests all municipal legislative powers in the City Council, and authorizes the City Council to establish those laws necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of such municipality and the inhabitants thereof;

WHEREAS, the City supports local businesses that provide massage therapy for health and wellness purposes in compliance with the provisions of the Health Care Professions and Occupations requirements, as set forth within §§ 12-235-101 C.R.S., et seq.;

WHEREAS, there are known to be businesses within the City of Lakewood identified as "illicit massage services", a form of business known to be associated with human trafficking, the exploitation of adults, and other forms of criminal activity against vulnerable people, and such activities are disruptive to neighborhoods;

WHEREAS, legal actions against illicit massage services by other large municipalities within the Front Range are encouraging such businesses to move to municipalities without such laws;

WHEREAS, the City desires to establish application procedures, fees and hours of operation applicable to Massage Businesses operating within the City to encourage Massage Therapy Businesses and discourage illicit massage services;

WHEREAS, approval of this ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a public hearing to provide City staff and the public an opportunity to present evidence and testimony regarding the proposal; and

WHEREAS, approval of this ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Amendment of Title 5, Chapter 52. Title 5, Chapter 52 of the Lakewood Municipal Code shall be amended as follows:

## **Chapter 5.52**

### **MESSAGE BUSINESS**

#### **5.52.010 Purpose.**

This Chapter is enacted for the purpose of promoting the health, safety, and welfare of the citizens of the City of Lakewood by licensing massage businesses.

Further, the City of Lakewood recognizes that the reputation and success of legitimate massage therapy businesses is denigrated and undermined by individuals who mask their unlawful sexual activity and human trafficking by holding themselves out as massage businesses.

#### **5.52.020 Definitions.**

As used in this chapter, unless the context otherwise requires, the following words and terms shall be defined as follows:

“Applicant” means an individual acting on behalf of a massage business to apply for a license.

“City Clerk” means the City Clerk or, such Clerk’s his or her designee.

“Client” means an individual who enters into an agreement for massage therapy for a fee or compensation of any kind within the City.

“Control” means the power to direct the management and policies of a massage business.

“Controlling person” means a person designated to control a massage business and is responsible for all enforcement of licensing matters.

“Employee” means any person who performs any service at a massage business on a full-time, part-time, or contract basis, whether the person is designated an employee, independent contractor, or otherwise. Employee does not include a person exclusively engaged in the repair or maintenance of the massage business facilities or equipment, or for the delivery of goods to a massage business.

“Inspector” means any person authorized by the City Manager, or such Manager’s designee, to enforce the provisions of this Chapter.

“License” means a grant to a licensee to operate a massage business.

“Licensed premises” means the premises specified in an approved application for a license under this chapter which are owned or in the possession of the licensee and within which such premises licensee is authorized to carry on the practice of massage.

**"Massage Business Licensing Authority", "Licensing Authority" or "Authority" means the hearing officer designated the Massage Business Licensing Authority of the City in accordance with this Chapter.**

**"Location" means a particular parcel of land that may be identified by an address or by other descriptive means.**

**"Manager" is an individual authorized by the licensee to exercise overall operational control of the business, to supervise employees, or to fulfill any of the functions required of a manager by this section.**

**"Massage business" means any place of business where any massage therapy or full body massage is practiced or administered. The term "massage business" shall not include:**

- (a) Training rooms of public or private schools accredited by the state board of education or approved by the division charged with the responsibility of approving private occupational schools.
- (b) Training rooms of recognized professional or amateur athletic teams.
- (c) Offices, clinics, and other facilities at which medical professionals licensed by the state of Colorado, or any other state, provide massage services to the public in the ordinary course of their medical profession.
- (d) Medical facilities licensed by the state.
- (e) Barber shops, beauty salons, and other facilities at which barbers and cosmetologists licensed by state provide massage services to the public in the ordinary course of their professions.
- (f) Bona fide athletic clubs not engaged in the practice of providing massage services to their members or to the public for remuneration; for purposes of this definition, if an athletic club does not receive more than 10 percent of its gross income providing massages to its members, or to the public, such shall be prima facie evidence of its status as a bona fide athletic club.
- (g) A place of business where a person offers to perform or performs massage therapy:
  - a. For not more than 72 hours in any six-month period; and
  - b. As a part of a public or charity event, the primary purpose of which is not to provide massage therapy.
- (h) A place of business where a state-licensed massage therapist practices as a solo practitioner, and complies with all required acts and limitations of operation of this section and;
  - a. Does not use a business name or assumed name; or
  - b. Uses a business name or an assumed name and provides the massage therapist's



full legal name, or license number in each advertisement, and each time the business name or assumed name appears in writing; and

- c. Does not maintain or operate a table shower as defined in this Chapter.
- (i) A place of business which limits its business to offering the following practices performed by persons who:
- a. Do not claim expressly or implicitly to be massage therapists; and
  - b. Limit their work to one or more of the following practices:
    - i. Use touch, words, and directed movement to deepen awareness of existing patterns of movement and suggest new possibilities of movement. Such practices include, but are not limited to the Feldenkrais method of somatic education, the "Rolf Institute's Rolf Movement Integration", the Trager approach to movement education, body-mind centering and ortho-bionomy; or use minimal touch over specific points on the body to facilitate balance in the nervous system. Such practices include, but are not limited to Bowenwork; or
    - ii. Use touch to affect the energy systems, acupoints or qi meridians (channels of energy) of the human body. Such practices include, but are not limited to, acupressure, Asian bodywork therapy, biodynamic craniosacral therapy, jin shin do body-mind acupressure, polarity, polarity therapy, and polarity therapy bodywork, qigong, reiki, shiatsu, and tuina; or
    - iii. Use touch to effect change in the structure of the body while engaged in the practice of structural integration. Such practices include, but are not limited to, practitioners of Rolfing structural integration, the Rolf method of structural integration, and Hellerwork; or
    - iv. Apply pressure to relax points on the feet, hands, and ears to bring the body into balance, thereby promoting wellbeing of clients. Such practices include, but are not limited to reflexology.

"Massage or massage therapy" means a system of structured touch, palpation, or movement of the soft tissue of another person's body in order to enhance or restore the general health and well-being of the recipient. Such system includes, but is not limited to, techniques such as effleurage, commonly called stroking or gliding; petrissage, commonly called kneading; tapotement or percussion; friction; vibration; compression; passive and active stretching within the normal anatomical range of movement; hydro massage; and thermal massage. Such techniques may be applied with or without the aid of lubricants, salt, or herbal preparations, water, heat, or a massage device that mimics or enhances the actions possible by human hands.

"Massage therapist" is an individual who has fulfilled the requirements for state licensure under Section 12-235-101, *et seq.*, C.R.S., and has a valid massage therapist license issued by the state of Colorado to engage in the practice of massage therapy.

"Mobile massage unit" means a vehicle or other moveable enclosure specifically equipped for

a massage therapist to provide massage therapy inside the vehicle or enclosure.

“Person” means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer, or employee of any of them.

“Premises” means a distinct and definite location which may include a building, a part of a building, a room, or any other definite area contiguous thereto.

“Sexual act” means sexual contact, sexual intrusion, or sexual penetration as defined in Section 18-3-401, C.R.S.

“Spa establishment” means a commercial massage business that offers or engages in personal services that call for the patron to disrobe, such as body wraps, hydro mineral wraps, body polish, body wash, baths, and hydro tub soak.

“Table shower” or “Vichy shower” means an apparatus for the bathing or massaging of a person on a table or in a tub.

#### **5.52.030 Licensing Authority established.**

A. There is established a Massage Business Licensing Authority (Authority), which shall have and is vested with the authority to grant or deny licenses for massage businesses; conduct investigations, and to suspend or revoke licenses for cause in the manner provided by this Chapter.

B. The Authority shall establish procedures for all hearings in conformity with the laws of the State and ordinances and resolutions of the City and shall promulgate all decisions in writing pursuant to the standards and requirements of this Chapter.

C. The Massage Business Licensing Authority shall consist of a Hearing Officer chosen by the City Clerk.

D. The Authority shall meet as needed.

E. The City Clerk shall receive all applications for licenses, and shall issue all licenses granted by the Authority, upon receipt of all fees as are required by this Chapter. All public notices required by this Chapter shall be accomplished by the City Clerk.

F. The City Clerk, or the Clerk’s designee, shall also be the massage business inspector, who shall perform routine periodic inspections of the licensed premises and such other duties as the Authority may reasonably direct.

#### **5.52.040 License required -- Display**

A. **Massage Business License.** On and after November 1, 2022 It is unlawful to operate a massage business within this City unless such person shall have first obtained a massage business license issued by the city. Such licenses shall be renewed annually and are non-transferable to any other identified business or location. An original of such shall be prominently displayed at all times upon the premises for which the license was issued pursuant to regulations promulgated by the Clerk..



B. **Massage Business Manager License.** No person shall be permitted to work as a manager of a massage business without a massage business manager's license unless they are the owner of a licensed massage business. Such licenses shall be renewed annually. Such licenses are non-transferable to any other individual or to any other location within the City.

**5.52.050 Application fee.**

A. Each applicant for a massage business license, whether an individual, partnership, or corporation, shall pay an application fee at the time of filing an application for such license. Such application fee shall be established by the City Clerk and shall be a minimum of \$50.00. Application fees shall be nonrefundable.

B. Each applicant for a massage business manager's license shall pay an application fee at the time of filing for a massage business manager's license. Such application fee shall be established by the City Clerk, and shall be a minimum of \$25.00. Application fees shall be nonrefundable.

**5.52.060 Application for New License.**

A. All applicants for any form of license mandated by this Chapter shall file an application for a license with the City Clerk.

B. Each application for a massage business license shall be on forms prepared and furnished by the City Clerk and shall contain the following information:

1. Each individual applicant, partner of a partnership, shall be named in each application form, and each of them shall be photographed and fingerprinted by the Police Department.
2. If the applicant is an individual, the applicant shall provide satisfactory proof that such applicant is 18 years of age or older.
3. If the applicant is a legal entity such entity shall provide satisfactory proof that each of the individual officers, directors, managers, partners, members, and/or principal owners of such entity is 18 years or older.
4. Each applicant for a massage business license, whether signing as an individual, or on behalf of a partnership or corporation, shall have an address, personal or professional, within the City at which service of any violation of this Chapter may be served and where such notices will be received by such applicant, after such applicant becomes a licensee.
5. Whether the applicant, or any of the other individuals required to be listed in the application, have been convicted of, or pled "nolo contendere" to, a felony or misdemeanor, in any federal, state, or municipal court in any of the United States jurisdictions or possessions, for prostitution, or of operating a prostitution enterprise, fraud, theft, embezzlement, kidnapping, human trafficking or money laundering or similar crimes. Failure to disclose any criminal conviction of the nature described within this paragraph may result in denial of the license application.

6. Whether the applicant, or any of the other individuals required to be listed in the application, has had a previous license under this or any other similar massage business ordinance from another jurisdiction or possession of the United States, denied suspended or revoked, and, if so, the name and location of the massage business for which such license was denied, suspended, or revoked, as well as the date of such denial, suspension, or revocation.

7. Whether the applicant, or any other individuals required to be listed in the application, has been an officer, director, manager, partner, member, and/or principal owner of any legal entity which currently or previously operates or operated a massage business or business meeting the definition of massage business in this Chapter within the last ten years, and the name, dates of operation, and location of such business or businesses.

8. Satisfactory proof of the applicant's ownership or right of possession of the premises wherein the massage business will be operated. The applicant shall have a continuing obligation to provide, where applicable, subsequent evidence of the right to possession of the premises.

9. Each individual applicant, partnership, and corporate applicant shall also furnish evidence, to the best of their ability, from the Planning Department and Public Works Department that the proposed establishment meets the requirements of the City of Lakewood zoning ordinance and occupancy requirements, complete plans and specifications for the premises, and any other information necessary to complete the determination that such premises are in compliance with this Chapter.

10. Each corporate applicant shall furnish evidence that it is in good standing under the statutes of the State of Colorado, or in the case of a foreign corporation, evidence that it is currently authorized to do business in the State of Colorado.

C. Each applicant for a massage business manager's license shall submit an application for such license on forms prepared and furnished by the City Clerk. Such application shall include, at a minimum, the following information:

1. Satisfactory proof that the applicant is 18 years of age or older;
2. The applicant's name, home address, date of birth, and telephone number.
3. Whether the applicant is a licensed massage therapist within the State of Colorado, and if so, the state massage therapy license number;
4. Whether the applicant has been involved in a criminal act as described in paragraph (A) of this section, and if so, the date and place of conviction, and the disposition; and
5. Any disciplinary actions taken by any state or local massage therapy board or criminal convictions for violations of a massage therapy practice act in any jurisdiction or possession of the United States, and the result of such disciplinary actions, whether the applicant is a licensed massage therapist or not.

D. The City Clerk shall not accept any application that is not complete in every detail. If an omission or error is discovered by the City Clerk, the application shall be rejected and returned to the applicant for completion or correction without further action by the City Clerk. All fees shall be returned with the application. For purposes of this chapter, the date the City Clerk accepts an



application which is complete in every detail shall be the filing date.

**5.52.070 Table or Vichy showers.**

A. To operate or maintain a table or Vichy shower on or about the licensed premises, such device must be specifically allowed as a permitted device on the massage business license.

B. The City Clerk may approve the use of a table or Vichy shower in the license if the following conditions are met:

1. The shower is commercial and professional in nature, manufactured with industrial grade materials, and is designed solely for the purpose of massage utilizing multiple overhead spray nozzles; and
2. The business practices appropriate draping of a shower client, to include draping of the buttocks and genitalia of all clients, unless the client gives specific written consent to be undraped.
3. Massage bathtubs and tables with accessory sprayers shall not be approved permitted devices pursuant to this Section

C. If the City Clerk has reason to believe that there is a failure to comply with the conditions in subsection B of this section, the City Clerk shall provide licensee with written notice that permission to operate a table or Vichy shower as a part of its license is terminated and the business shall not be allowed to operate such shower.

D. The licensee may appeal the termination or denial of shower use in accordance with the provisions set forth in Section 5.52.090(F).

**5.52.080 Application Review**

The City Clerk shall immediately submit for review by applicable City Departments copies of applications submitted in accordance with this section.

A. Within twenty (20) days of the date of the filing of a complete application for any license application associated with this Chapter being accepted by the City Clerk, the police department shall notify the Clerk's office as to whether the applicant, and any such individual required to be listed in the corresponding license application, meet the requirements in subsection 5.52.090. Such review shall be completed within 20 days after the license application is submitted. The police department shall only be required to provide the information specified in subsection A of this section and shall not be authorized to approve or disapprove any license application but shall provide information as to the veracity of information provided in any such applications.

B. Within twenty (20) days of the date of the filing of the complete application for a massage business license being accepted by the City Clerk, the Planning Department and Public Works Department shall notify the Clerk's office as to whether the identified site of such massage business meets the requirements of the City of Lakewood zoning ordinance and occupancy requirements, and any other information necessary to complete the determination that such premises are in compliance with this Chapter.



**5.52.090 Decision – New Applications; Appeal**

A. An application with a completed investigation shall be administratively approved or denied by the City Clerk within thirty (30) days of the date of the filing of the complete application.

B. The City Clerk shall administratively approve the application for licensure upon a finding that such application conforms to the requirements of this Chapter. The City Clerk shall make written findings setting forth the City Clerk's basis for approval and provide a copy of such findings to the applicant.

C. Following administrative approval of a license an applicant has fifteen (15) days following notification of such approval to appear in person at the Office of the City Clerk to pay the licensing fee and to collect the license document for posting at the business premises.

D. The City Clerk shall deny a license application if:

1. The applicant has voluntarily surrendered any license to practice as a massage therapist or operate a massage business because of, or while under, civil or criminal investigation; or

2. The applicant has had a license to practice as a massage therapist or to operate a massage business or similar license, denied or revoked by the State of Colorado or a political subdivision of Colorado, or a regulatory board in another United States jurisdiction or possession, for an act that occurred in that jurisdiction that would be a violation under this Chapter; or

3. The applicant is a registered sex offender or required by law to register as a sex offender; or

4. The applicant has any prior conviction for an offense involving sexual misconduct with a child, including sexual abuse, sexual assault, sexual conduct, sexual molestation, and sexual exploitation; or

5. Subject to the requirements of Section 24-5-101, C.R.S., the applicant has any prior convictions or pending violations for any crimes, including but not limited to prostitution, or of operating a prostitution enterprise, fraud, theft, embezzlement, kidnapping, human trafficking or money laundering; or

6. The location where the license is applied for has had a similar license revoked or surrendered for cause within the last 24 months; or

7. The applicant knowingly made a false statement or knowingly gave false information in connection with the application.

E. Any change in the partners' holdings over ten percent (10%) in interest of a partnership, or any change in the officers, directors, or holders of over ten percent (10%) of the stock of a corporate licensee, holding a massage business license shall result in termination of the massage business license of the partnership or corporation, unless such licensee within thirty days after such change, files a written notice of such change with the City Clerk on forms provided by the City Clerk, together with the required fees, fingerprints, and photographs. A complete application review, including conformance to Section 5.52.80 shall be completed prior to the City Clerk approving or denying modification of the license.

F. Each license issued under this Chapter is separate and distinct, and no person shall exercise any of the privileges granted under any license other than that which such individual holds. A separate license shall be issued for each specific business or business entity and each geographical location.

G. In the event the City Clerk denies a license application, the City Clerk shall prepare written findings of fact stating the reasons or basis for the denial. The City Clerk shall, within ten (10) days after the date of the City Clerk's denial, send a copy of the City Clerk's findings by certified mail, return receipt requested, to the address of the applicant.

H. In the event the City Clerk denies a license application, the applicant shall have the right to appeal such decision. Such appeal shall be a public hearing before the Authority. The request for appeal shall be in writing and received by the City Clerk within twelve (12) days of the date the City Clerk mailed the Clerk's determination of denial to such applicant. The appeal hearing shall be conducted by the Authority in conformance with the standards of Section 5.52.030 within thirty (30) days of the City Clerk's receipt of the written request unless a later date is requested by the applicant in writing. If the applicant fails to request an appeal of the Clerk's decision within the allotted time the City Clerk's decision to deny a license application shall become final. An applicant is not eligible apply for a license under this Chapter for six (6) months following denial of any application for a license under this Chapter. Following approval of a license by the Authority an applicant has fifteen (15) days following notification of such approval to appear in person at the Office of the City Clerk to pay the licensing fee and to collect the license document for posting at the business premises.

#### **5.52.100 Temporary license.**

A. The City Clerk may issue a temporary massage business license upon receipt of a complete massage business application, when such massage business was previously licensed in accordance with this Chapter and the new license is required due to the sale or change in ownership of a business. Such license shall be issued for 30 days and renewed every 30 days until approval or denial of the massage business license. No license application fee shall be mandated if such request for modification is made during the first six months of an approved license. If such modification of license is made after the first six months of an approved license all fees as applicable to a renewal license shall apply.

B. The City Clerk may issue a temporary massage business manager license upon receipt of a complete massage manager license application upon sale, change of ownership, or change of manager of an existing licensed massage business. Such license shall be issued for 30 days and may be renewed for good cause for additional 30-day periods until approval or denial of the massage manager license. No license application fee shall be mandated if such request for modification is made during the first six months of an approved license. If such modification of license is made after the first six months of an approved license all fees as applicable to a renewal license shall apply.

#### **5.52.110 Renewals.**

Application for the renewal of an existing license shall be made to the City Clerk not less than forty-five days prior to the date of expiration. The Clerk may administratively renew such license if such renewal is in conformance with this Chapter. If the Clerk is not able to administratively renew such license the Clerk shall cause a hearing on the application for renewal to be held.



Failure to be issued a renewal license prior to the end of the previous term of license may be grounds for temporary cessation of business at such location unless the Clerk determines that such business may be temporarily licensed pursuant to Section 5.52.100 of this Chapter.

No such renewal hearing shall be held by the Authority until a notice of hearing has been conspicuously posted on the licensed premises for a period of ten days and notice of the hearing has been provided to the applicant at least ten days prior to the hearing. The Authority, in its discretion, may revoke or elect not to renew a license if it determines that the licensed premises have been inactive for at least three months. The Authority may also refuse to renew any license for good cause, subject to judicial review.

**5.52.120 Transferability; Change of ownership.**

No license under this Chapter shall be transferable to another person or any other group acting as a unit.

**5.52.130 License term - Fees.**

A. All licenses granted pursuant to this Chapter shall be for a term of one year. Said term shall commence on the date the license is issued or renewed.

B. The license fee for a new massage business license shall be set pursuant to an assessment of licensing cost to the city by the city clerk at the beginning of each calendar year.

C. The annual license renewal fee shall be a lesser amount also set by the city clerk each year.

D. The license fee for a new massage business manager's license shall be set by the City Clerk but shall not be less than \$25.

E. The annual manager's license renewal fee shall be set by the City Clerk, but shall not be less than \$10.

F. The fees required pursuant to this Section are non-refundable.

**5.52.140 Suspension-Revocation-Hearings.**

A. In addition to any reason in this Chapter, and notwithstanding any provision of this Chapter to the contrary, the Authority may suspend, revoke or not renew a license upon a finding of one or more of the following:

1. The licensee has committed a violation of any section of this Chapter; or
2. Any employee or contractor required by this Chapter to possess a valid massage therapist license is determined to have obtained such license through fraud, deceit or misrepresentation, or the state has revoked said massage therapy license; or
3. The licensee willfully failed to disclose any information as required in this Chapter; or
4. The licensee knowingly permitted a person to perform massage therapy when licensee should have reasonably known that such person was not licensed in accordance with Section 12-235-101, *et seq.*, C.R.S.; or

5. A pattern of credible facts emerges that the business is attempting to operate a prostitution enterprise whether there is a violation of any specific law, rule, or code; or

6. The licensee failed to permit an inspection as authorized by this Chapter any time the business is occupied or open for business.

B. Notice. When the Authority decides to suspend, revoke, or not renew a license the Authority, through the City Clerk, shall prepare written findings of fact stating the reasons or basis for the suspension, revocation, or denial of renewal. The City Clerk shall, within ten (10) days after the date of revocation, suspension or denial, send a copy of the City Clerk's findings by certified mail, return receipt requested, to the address of the licensee.

C. Appeal. In the event a license is suspended, revoked, or denied renewal, the licensee shall have the right to appeal such decision. Such appeal shall be a public hearing before the Authority. The request for appeal shall be in writing and received by the City Clerk within twelve (12) days of the date the City Clerk mailed the Clerk's determination of suspension, revocation, or denial. The appeal hearing shall be conducted within thirty (30) days of the City Clerk's receipt of the written request unless a later date is requested by the applicant in writing. If the applicant fails to request an appeal of the Authority's decision within the allotted time the Authority's decision to suspend, revoke, or deny renewal shall become final.

D. Hearing procedure. The Authority shall establish procedures for all hearings in conformity with the laws of the state and ordinances and resolutions of the City.

E. Subpoenas.

1. The Lakewood City Attorney's Office and the licensee shall have the power to issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of any hearing the Authority is authorized to conduct. It is unlawful for any person to fail to comply with any such properly issued subpoena.

2. Subpoenas shall be served in accordance with the Colorado Rules of Civil Procedure.

3. Upon failure of any witness to comply with such subpoena, the Lakewood City Attorney's Office may petition any judge of the Lakewood Municipal Court, setting forth that due notice had been given of the time and place of attendance of the witness and that service of the subpoena was proper, and requesting the court, after hearing evidence in support of or contrary to the petition, enter its order compelling the witness to attend and testify, or to produce books, records or other evidence, under penalty of punishment for contempt in the event of willful failure to comply with such order.

F. Oaths. The City Clerk shall have the power to administer oaths.

G. Continuance. The Authority may continue the hearing to a date certain as may be required to gather necessary facts and evidence and to permit witnesses to testify.

H. Decision. The Authority shall render a written decision and order no later than thirty (30) days after the conclusion of the appellate hearing.

I. Appeals. The Authority's order shall be a final decision and may be appealed to the District Court pursuant to Colorado Rules of Civil Procedure § 106(a)(4).



**5.52.150 Unlawful acts.**

A. It is unlawful for any person:

1. To operate a massage business anywhere within the City without holding a valid Lakewood massage business license.
2. To employ any person to act as manager at a massage business who is not licensed as a manager or a licensed owner as required by this Chapter.
3. To be open for business for the practice of massage therapy without a massage therapist on the premises that has been licensed in accordance with Section 12-235-101, C.R.S.
4. To operate or maintain a table shower or Vichy shower on the premises unless operation of such table/Vichy shower was approved as a part of the massage business license.
5. To permit a licensed massage business to be used for housing, sheltering, or harboring any person(s), or as living or sleeping quarters for any person(s). The owner and family members of any massage business operated as a home occupation, as defined by Lakewood Zoning Ordinance, are exempt from this prohibition.
6. To massage any other person, or give or administer any bath or baths, including table showers or Vichy showers, in a manner intended to arouse, appeal to, or gratify the lust or passions, or sexual desires of such other person. In no case shall the employee intentionally touch either the male or female genitalia of the client.
7. To allow any employee to provide massage therapy or other massage services without being fully clothed. For purposes of this subsection, clothing shall be of a fully opaque, nontransparent material that shall not expose the employee's genitals, pubic region, buttocks, or breasts, or substantially expose the employee's undergarments.
8. To require client nudity as a part of any massage service without the client's prior consent.
9. To use or possess adult-oriented merchandise, including sex toys, sexual aids, vaginal or anal lubricant, or any contraceptive item, in any part of a massage business.
10. To permit any individual, including a client, student, contractor, or employee, to engage in any sexual act in the massage business.
11. To fail to immediately report to appropriate law enforcement the commission of any criminal acts upon the premises, including any disorderly conduct, sexual acts, or other criminal activity.
12. To make an agreement, or to permit any individual to make an agreement with an employee, to engage in sexual activity in any other location.
13. To conceal persons in the business for illegal purposes or to conceal such individuals by allowing them to exit side or back doors to avoid lawful criminal justice

action.

14. To perform or permit anyone to perform massage without a valid massage therapist license issued under Section 12-235-101, *et seq.*, C.R.S.

15. To operate the business between the hours of 10:00 p.m. and 5:00 a.m.

**5.52.160 Required acts.**

A. Every licensed massage business is required to:

1. Have a licensed Massage Business Manager or the owner of a licensed massage business on premises during the business's hours of operation.

2. Maintain a current list of employees and contractors on site including start dates of employment or contracted service, full legal name, date of birth, home address and telephone number, employment position, date first began employment or service, and the date when services were terminated if applicable.

3. Maintain a copy of each massage therapist's Colorado license for each employee and contractor performing massages.

4. Maintain a complete set of records to include a log of all massage or massage therapy administered at the business. The log shall contain the following information: date, time, and type of each massage therapy administered, and the name of the employee administering the massage therapy. The log shall be retained for a minimum of one year following any massage therapy. The massage therapy log shall be subject to inspection upon request by the inspector, during normal business hours in compliance with applicable law.

5. Operate under or conduct business under only the designation specified in the license.

6. List the address of the business in any advertisement.

7. Ensure that massage facilities interior and exterior doors remain unlocked while the massage business is open. The exception to this requirement is as follows: The exterior doors may remain locked if: (i) the massage business is operated as a home occupation or (ii) during the time period when only one employee is present in the business.

B. Massage therapists shall remain fully clothed while administering massage or otherwise visible to clients on business premises, including premises designated by the client through an outcall massage service.

**5.52.170 Inspections.**

A. No owner, manager, massage therapist, or employee shall fail to immediately grant access to a licensed massage business any time such establishment is occupied or open for business, to a licensing administrator, authorized inspector, or any other person authorized or required by law to inspect the business.



B. Inspections shall be for the purposes of determining if a licensed massage business manager or the owner of a licensed massage business is on premises, if a log of all massage therapy being administered at the business is being kept, and whether all massage therapists working at the time held valid Colorado massage therapist licenses.

C. No owner, manager, massage therapist, or employee shall fail to immediately grant access to the log of all massage therapy administered at the business to a licensing administrator, authorized inspector, or any other person authorized or required by law to inspect the massage business, without reasonable delay.

D. Inspectors may request to review the massage therapist license issued by the State at any time during an inspection for the massage therapists, managers, or massage therapist employed as contractors.

**5.52.180 Supplemental provisions.**

The City Clerk and Authority may promulgate rules and regulations carrying out the requirements of this Chapter.

**5.52.190 Cumulative and concurrent remedies.**

No remedy provided herein shall be exclusive, but the same shall be cumulative, and the taking of any action hereunder, including charge or conviction of violation of this Chapter in the municipal court of the City, shall not preclude or prevent the taking of other action hereunder to abate or enjoin any criminal activity, civil offense, or nuisance found to exist upon any property licensed hereto.

Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action, and when applicable the abatement provisions of this Chapter shall serve as and constitute a concurrent remedy over and above any other provision of law. Any application of this Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under the municipal ordinances or any other provision of law.

**5.52.200 Severability.**

If any paragraph or subparagraph of this chapter is held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not invalidate the remainder of this chapter and, to this end, the provisions of this chapter are declared to be severable.


SECTION 2. This ordinance shall take effect thirty (30) days after final publication.

SECTION 3. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.


I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a regular hybrid meeting of the Lakewood City Council on

the 13<sup>th</sup> day of June, 2022; published by title in the Denver Post and in full on the City of Lakewood's website, [www.lakewood.org](http://www.lakewood.org), on the 16<sup>th</sup> day of June, 2022; set for public hearing on the 27<sup>th</sup> day of June, 2022, read, finally passed and adopted by the City Council on the 27<sup>th</sup> day of June, 2022 and, signed and approved by the Mayor on the 28<sup>th</sup> day of June, 2022.

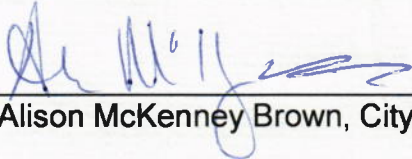


  
\_\_\_\_\_  
Adam Paul, Mayor

ATTEST:

  
\_\_\_\_\_  
Jay Robb, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Alison McKenney Brown, City Attorney