

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, AMENDING THE OLYMPIA MUNICIPAL CODE BY ADDING A NEW CHAPTER TO TITLE 5, ENTITLED MASSAGE AND REFLEXOLOGY BUSINESS SERVICES; BY ADDING A NEW SECTION TO CHAPTER 5.02, ADDRESSING DENIAL OR REVOCATION OF SUCH BUSINESS LICENSES WHEN CONVICTED OF CERTAIN OFFENSES; BY AMENDING CHAPTER 9.24, UPDATING THE CHAPTER AND INCORPORATING CERTAIN OFFENSES BY REFERENCE; AND BY AMENDING SUBSECTION 18.02.180(P) DEFINITIONS

WHEREAS, there are recognized health and wellness benefits to massage and reflexology services when provided by trained practitioners who are certified and licensed; and

WHEREAS, massage and reflexology businesses in the City of Olympia serve a legitimate and beneficial purpose in our community; and

WHEREAS, some businesses that represent themselves as massage and reflexology businesses employ unlicensed and uncertified persons to provide services that do not follow state health and licensing requirements with practitioners who do not have the proper training required to obtain a state license or certification, or who may be underage; and

WHEREAS, businesses that employ unlicensed or uncertified persons to provide massage and reflexology services may be used to facilitate the commission of various criminal acts including but not limited to, prostitution, human trafficking, and money laundering; and

WHEREAS, businesses that permit unlicensed or uncertified persons to perform massage and reflexology or permit the commission of unlawful acts undermine the business and reputation of legitimate licensed businesses and practitioners and present a threat to public health, safety, and welfare; and

WHEREAS, the addition of a new chapter to the Olympia Municipal Code is intended to prevent an individual or business from engaging in the practice of providing unlicensed massage and reflexology, deter criminal activity, and support the legitimate delivery of health and wellness services by licensed massage therapists and reflexologists; and

WHEREAS, the addition of a new section to the Olympia Municipal Code will provide the City with a tool to ensure that massage and reflexology businesses are operating properly and to protect the community against certain unlawful acts; and

WHEREAS, certain offenses, such as those relating to prostitution, are established in state law; and

WHEREAS, for consistency and to facilitate license denial and revocation of massage therapist and reflexology businesses with certain criminal convictions, it is necessary to incorporate state statutes and regulations by reference; and

WHEREAS, Chapter 9.24 of the Olympia Municipal Code was enacted in 1976, and it is necessary to update the offenses contained herein;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC Chapter 9.24. Chapter 9.24 of the Olympia Municipal Code is hereby amended to read as follows:

Chapter 9.24
OFFENSES AGAINST PUBLIC DECENCY

9.24.000 Chapter Contents

Sections:

- 9.24.010 Definitions.
- ~~9.24.020 Prostitution.~~
- ~~9.24.030 Prostitution loitering.~~
- ~~9.24.040 Promoting prostitution.~~
- ~~9.24.050 Patronizing a prostitute.~~
- ~~9.24.060 Prostitution and patronizing a prostitute—No defense.~~
- ~~9.24.070 Permitting prostitution.~~
- ~~9.24.080 Body studios and on-premises dating services.~~
- 9.24.090 Urinating in public.
- 9.24.100 Displaying erotic material lewd matter.
- 9.24.110 Lewd conduct.
- 9.24.120 State statutes adopted by reference.

9.24.010 Definitions

For the purpose of this chapter, certain words and terms are defined as follows:

A. "Lewd Matter" is synonymous with "obscene matter" and means any matter:

1. Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest in sex; and
2. Which explicitly depicts or describes patently offensive representations or descriptions of:
 - a. Ultimate sexual acts, normal or perverted, actual or simulated; or
 - b. Masturbation, fellatio, cunnilingus, bestiality, excretory functions, or lewd exhibition of the genitals or genital area; or
 - c. Violent or destructive sexual acts, including but not limited to human or animal mutilation, dismemberment, rape or torture; and
3. Which, when considered as a whole, and in the context in which it is used, lacks serious literary, artistic, political, or scientific value.

B. ~~"Erotic material" means motion pictures, photographs, pictures, printed material and other such objects depicting:~~

- ~~1. Human sexual intercourse;~~
- ~~2. Masturbation;~~
- ~~3. Sodomy (i.e., bestiality or oral or anal intercourse);~~
- ~~4. Direct physical stimulation of unclothed genitals;~~

- ~~5. Flagellation or torture in the context of sexual relationships; or~~
- ~~6. An emphasized depiction of bare adult human genitals; provided, however, that this definition applies only to those works which, applying the average standards of the city, taken as a whole appeal to the prurient interest of persons and which lack serious literary, artistic, political or scientific value.~~

~~C. "Known prostitute or panderer" means a person who within one year previous to the date of arrest for violation of this section, has within the knowledge of the arresting officer been convicted of an offense involving prostitution.~~

~~DB.~~ Lewd act means public:

1. Exposure of one's anus, genitals, or female breasts; or
2. Touching, caressing or fondling of the anus, genitals or female breasts; or
3. Sexual conduct, as defined by subsection EF of this section; provided, however, that this definition applies only to those works which, applying the average standards of the city, taken as a whole appeal to the prurient interest of persons and which lack serious literary, artistic, political or scientific value.

~~C.~~ "Matter" means a live performance, a motion picture film, or a publication or any combination.

~~ED.~~ Public place means an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the public, whether or not limited to persons over a specified age, including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

~~FE.~~ "Sexual conduct" means:

1. Sexual intercourse within its ordinary meaning, occurring upon any penetration, however slight; or
2. Any penetration of the vagina or anus, however slight, by an object, when committed by one person on another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes; or
3. Any contact between persons involving the sex organs of one person and the mouth or anus of another, whether such persons are of the same or opposite sex; or
4. Masturbation, manual or instrumental, of one person by another; or
5. Flagellation or torture in the context of a sexual relationship.

~~9.24.020 Prostitution~~

~~A. A person is guilty of prostitution if the person engages in or agrees or offers to engage in sexual conduct with another person in return for a fee.~~

~~B. This section shall not apply to sexual conduct engaged in as part of a stage performance, play or other entertainment open to members of the public.~~

~~9.24.030 Prostitution loitering~~

A.—A person is guilty of prostitution loitering if the person remains in a public place and intentionally solicits, induces, entices, or procures another to commit prostitution.

B.—Among the circumstances which may be considered in determining whether the actor intends such prohibited conduct are that the person:

- 1.—Repeatedly beckons to, stops or attempts to stop, or engages a passerby in conversation; or
- 2.—Repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or other bodily gestures; or
- 3.—Is a known prostitute or panderer.

9.24.040 Promoting prostitution

A person is guilty of promoting prostitution if:

A.—Acting other than as a prostitute or as a customer thereof, the person knowingly:

- 1.—Causes or aids a person to commit or engage in prostitution, or
- 2.—Procures or solicits customers for prostitution, or
- 3.—Provides persons or premises for prostitution purposes, or
- 4.—Operates or assists in the operation of a house of prostitution or a prostitution enterprise, or
- 5.—Engages in any other conduct designed to institute, aid or facilitate an act or enterprise of prostitution; or

B.—Acting other than as a prostitute receiving compensation for personally rendered prostitution services, the person accepts or receives money or other property pursuant to an agreement or understanding with a person whereby the person participates or is to participate in the proceeds of prostitution activity.

9.24.050 Patronizing a prostitute

A person is guilty of patronizing a prostitute if:

A.—Pursuant to prior understanding, the person pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with that person;

B.—The person pays or agrees to pay a fee to another person pursuant to an understanding that, in return therefor, such person will engage in sexual conduct with that person;

C.—The person solicits or requests another person to engage in sexual conduct with that person in return for a fee.

9.24.060 Prostitution and patronizing a prostitute—No defense

In any prosecution for prostitution or patronizing a prostitute, the sex of the two parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial, and it is no defense that:

A.—Such persons were of the same sex;

B.—The person who received, agreed to receive or solicited a fee was a male and the person who paid or agreed or offered to pay such fee was a female.

9.24.070 Permitting prostitution

A person is guilty of permitting prostitution if, having possession or control of premises which the person knows are being used for prostitution purposes, the person fails to make reasonable effort to halt or abate such use.

9.24.080 Body studios and on-premises dating services

A.—Prohibited. It is unlawful for any person to operate, conduct, maintain, participate in or advertise a body studio or on-premises dating service, as defined in this section, or to knowingly be employed, participate in or conduct any business on the premises of a body studio or on-premises dating service.

B.—Body Studio Defined. As used in this section, a "body studio" is any premises, other than a massage parlor as defined in Chapter 5.44 of this code, and licensed as such, upon which is furnished for a fee or charge the opportunity to paint, massage, feel, handle or touch the unclothed body or unclothed portion of the body of another person with intent to arouse the prurient interest of any person, or to be so painted, massaged, felt, handled or touched by another person, or to observe or photograph any such activity. This includes any such premises which is advertised or represented to be a body painting studio, model studio, sensitivity awareness studio, communications center or any other such characterization and which leads to a reasonable belief that there will be furnished on such premises for a fee or charge the opportunity to paint, massage, feel, handle, or touch the unclothed body or an unclothed portion of the body of another person with intent to arouse the prurient interest of any person, or to be so painted, massaged, felt, handled or touched by another person, or to observe, view or photograph any such activity.

C.—On-premises Dating Service Defined. "On-premises dating service" means any premises which is advertised or represented as, or is, a dating service or studio or any other expression or characterization which conveys the same or similar meaning, and which renders its services on its premises, and leads to the reasonable belief that there will be furnished on such premises for a fee or charge the opportunity to massage, feel, handle, caress or touch the unclothed body or unclothed portion of the body of another person with intent to arouse the prurient interest of any person, or to be so massaged, felt, handled, touched or caressed by another person.

9.24.090 Urinating in public

It is unlawful for any person to urinate or defecate in a public place other than a washroom or toilet room or other facility specifically designated and intended for that use.

9.24.100 Displaying erotic material lewd matter

A person who, having knowledge of the contents thereof, knowingly places, or causes another to place, for sale or otherwise, erotic material lewd matter upon display in a public place or knowingly fails to take prompt action to remove such public display from property in the person's possession after learning of its existence is guilty of displaying erotic material; provided, however, the display of written material depicting the activity enumerated in subsection B1 of Section 9.24.010 will not by itself constitute an offense lewd matter.

9.24.110 Lewd conduct

A. A person is guilty of lewd conduct if the person intentionally performs a lewd act in a public place or at a place and under circumstances where such act could be observed by any member of the public.

B. The owner, manager or operator of premises open to the public is guilty of permitting lewd conduct if the owner, manager or operator intentionally permits or causes any lewd act on the premises.

C. A violation of this section is a gross misdemeanor.

9.24.120 State statutes adopted by reference

The following sections of the Revised Code of Washington, as it ~~they~~ appears now or ~~is~~ are hereafter amended, ~~is~~ are hereby adopted by reference as though fully set forth in this chapter:

9A.88.010- Indecent Exposure

9A.88.030- Prostitution

9A.88.040- Prosecution for prostitution under RCW 9A.88.030—Affirmative defense

9A.88.050- Prostitution—Sex of parties immaterial—No defense.

9A.88.090- Permitting prostitution

9A.88.110- Patronizing a prostitute.

9A.88.120- Additional fee assessments

9A.88.130- Additional requirements

9A.88.140- Vehicle impoundment—Fees—Fines

9A.88.150- Seizure and forfeiture

9A.88.190- Enforcement of rules restricting contact

9A.88.200- Emergency assistance—Criminal immunity

Section 2. Amendment of OMC 5.00.000. Section 5.00.000 of the Olympia Municipal Code is hereby amended to read as follows:

5.00.000 Title Contents

Title 5 BUSINESS TAXES, LICENSES AND REGULATIONS

Chapters:

[5.02](#) Business Licenses

[5.04](#) Business and Occupations Tax

[5.05](#) Administrative Provisions for Certain Taxes

[5.10](#) Occupational Permits

[5.15](#) Cable Communications Franchises

[5.16](#) Adult Oriented Businesses

[5.17](#) Community Events

[5.18](#) Farmers Market

[5.20](#) Gambling Activities

[5.24](#) Garage Sales

[5.26](#) Massage and Reflexology Business Services

[5.32](#) Admissions Tax

[5.48](#) Occult Arts

[5.50](#) Pet Shops

[5.52](#) Locksmiths

[5.55](#) Security Alarm Businesses

[5.60](#) Secondhand Dealers

[5.64](#) Solicitors

- [5.68](#) For-Hire Vehicles
- [5.72](#) Towing Services
- [5.80](#) Unfair Housing Practices
- [5.82](#) Rental Housing Code
- [5.84](#) Utility Services Tax

Section 3. Adoption of OMC Chapter 5.26. A NEW CHAPTER 5.26 is hereby adopted and shall be added to Title 5 of the Olympia Municipal Code to read as follows:

Chapter 5.26
MESSAGE AND REFLEXOLOGY BUSINESS SERVICES

5.26.000 Chapter Contents

Sections:

- [5.26.010 Definitions.](#)
- [5.26.020 Owner, director, manager - proof.](#)
- [5.26.030 Exemptions – Limitations – Name or structure of business.](#)
- [5.26.040 Inspections.](#)
- [5.26.050 Massage therapist or reflexologist – Owner, director, manager or other person in charge to ensure valid license or certificate – Violation.](#)
- [5.26.060 Massage therapist or reflexologist - Owner, director, manager, or other person in charge to ensure valid license or certificate – Violation.](#)
- [5.26.070 Display of massage therapist or reflexologist license or certificate required – Violation.](#)
- [5.26.080 Receipt of massage or reflexology services from unlicensed massage therapist or reflexologist – Unlawful.](#)
- [5.26.090 Minors practicing massage or reflexology – Responsibility of owner, director, manager, or other person in charge – Receipt of massage or reflexology services from minor unlawful.](#)
- [5.26.100 Advertising.](#)
- [5.26.110 Business Hours and Services.](#)
- [5.26.120 Practice requirements and limitations – Responsibility of owner, director, manager, or other person in charge.](#)
- [5.26.130 Violations – Penalty.](#)
- [5.26.140 State rules and statutes adopted by reference.](#)

5.26.010 Definitions

For the purpose of this chapter, certain words and terms are defined as follows:

A. "Advertise" means any communication to one or more persons identifying massage or reflexology services being offered by any individual or business, including, but not limited to, signs located at a massage business or reflexology business; signs located in places other than at a massage business or reflexology business; advertisements on vehicles; advertisements in paper media such as newspapers, magazines, fliers, cards or business cards; or advertisements in electronic media such as internet websites, social media, electronic classified advertisements, cell phone applications, and television or radio advertisements.

B. "Breast Massage" shall have the same meaning as set forth in WAC 246-830-005(7).

C. "Certified reflexologist," "massage business," "massage," "massage therapist," "massage therapy," "reflexology," and "reflexology business" shall have the meanings set forth in RCW 18.108.010.

D. "Common areas" means the areas within a business that are open and available to patrons upon entering the business, including but not limited to lobbies and waiting areas.

E. "Conspicuously display" shall mean the display of licenses and certificates in a manner that can be viewed and read by a person immediately upon entry into the initial common area of a massage business or reflexology business without having to request to see the license or certification.

In situations where a massage business or reflexology business is a mobile service which travels to where the massage therapy service or reflexology service will be conducted, *conspicuously display* shall mean the display of licenses and certificates in a manner that can be viewed and read by a person immediately upon approaching the massage table, massage chair or furniture used to do massage therapy or reflexology.

F. "License," "certificate" and "certification" mean a license, certificate or certification issued pursuant to chapter 18.108 RCW.

G. "Massage Therapist" means a person licensed as a massage therapist under Chapter 18.108 RCW.

H. "Reflexologist" means a person who practices reflexology.

I. "Represent himself or herself as a massage therapist shall have the same meaning as set forth in RCW 18.108.030(1)(b).

J. "Represent himself or herself as a reflexologist" shall have the same meaning as set forth in RCW 18.108.030(2)(b).

K. "Unlicensed Practice" means:

1. Practicing a profession or operating a business identified in RCW 18.130.040 without holding a valid, unexpired, unrevoked, or unsuspended license to do so; or

2. Representing to a consumer, through offerings, advertisements, or use of a professional title or designation, that an individual is qualified to practice a profession or operate a business identified in RCW 18.130.040, when that individual does not hold a valid, unexpired, unrevoked, and unsuspended license to do so.

5.26.020 Owner, director, manager - Proof

A. For purposes of this chapter, whether a person is an owner, director, manager, or other person in charge of a massage business or reflexology business may be established from evidence such as, but not limited to:

1. The person holds himself or herself out as an owner, director, manager, or some other like title evidencing control over business decisions;
2. The person is responsible for the general business decisions of the business;
3. The person is considered by those who provide massage or reflexology services as an owner, director, manager, or other person in charge;

4. The person is in control or partial control of when, how, or how much those who provide massage or reflexology services work or are paid, or whether those who provide massage or reflexology services are employees or contractors retained to provide services on behalf of the business;
5. The person is listed as a registered agent of the business;
6. The person is listed as a "governing people" by the Washington State Business Licensing Service;
7. The person is an applicant or is listed as an owner on a city or state business license or license application;
8. The person receives income from the business that is dependent on revenue generated by another person providing massage or reflexology services on behalf of or at the business;
9. The person has signed a lease or rental agreement for property at which the business is operated or is responsible for lease or rent payments;
10. The person has signed for a loan on behalf of the massage or reflexology business;
11. The person is financially responsible for the massage business or reflexology business utilities or services such as water, electricity, garbage, sewer, telephone, internet, cable television, security, cleaning, maintenance or accounting;
12. The person pays taxes on behalf of the business;
13. The person is responsible for ensuring the business is properly supplied with resources necessary to carry out the work of the business or maintain the business; or
14. The person is in control or partial control of scheduling massage or reflexology services for a patron or assigning a person to provide such service to any patron.

B. The presence of any of the circumstances described in subsection A shall be sufficient to establish that a person is the owner, director, manager, or other person in charge of a massage business or reflexology business. The circumstances described in subsection A are not exclusive and other evidence may demonstrate a person is an owner, director, manager, or other person in charge of a massage business or reflexology business.

5.26.030 Exemptions – Limitations – Name or structure of business

A. This chapter shall not apply to the following:

1. Activities set forth in RCW 18.108.050 when performed as provided in that statute; or
2. Massage or reflexology that is not provided in exchange for a fee, property or other consideration.

B. The exemptions set forth in subsection A(1) shall not apply to any person who practices or represents himself or herself as a massage therapist or who practices reflexology or represents himself or herself as a reflexologist and who advertises for the massage or reflexology services, to any business that advertises for massage or reflexology services, or to any person who provides massage or reflexology services at a business that advertises for such services.

C. The exemptions set forth in subsection A(1) shall not apply to any person who obtains massage or reflexology services from a person who advertises for the massage or reflexology services, from a business that advertises for massage or reflexology services, or from any person who provides massage or reflexology services at a business that advertises for such services.

D. The fact that a person or business that provides massage or reflexology services describes or advertises such services by a name other than massage or reflexology shall not exempt that person or business from this chapter.

E. In the event the services provided fall within the definition of massage or reflexology, the manner in which a business is incorporated or structured shall be of no consequence in determining if a business provides massage or reflexology services.

F. A club or cooperative arrangement in which a person pays a fee to become a member of the club or cooperative, and as a result of such membership, he or she obtains massage or reflexology services, shall be considered a massage business or reflexology business.

5.26.040 Inspections

A. Law enforcement personnel shall have the authority to inspect the premises of any massage business or reflexology business in order to ensure:

1. Compliance with the requirement that licenses and certifications are conspicuously displayed and valid;
2. That those providing massage or reflexology services are validly licensed and of proper age; and
3. Compliance with the advertising requirements of this Chapter.

B. Inspection of a valid government issued ID as permitted under RCW 18.108.045 (2) for all persons representing themselves to be massage therapists or reflexologists.

C. Inspections shall be limited to times when the massage or reflexology business is open.

D. Inspections shall be limited to the common areas of the massage or reflexology business. This section shall not authorize entry or inspection of rooms in which massage or reflexology is provided and which are separated from the common area of the massage business or reflexology business absent consent, a warrant, or other lawful basis

E. This section shall not be interpreted as limiting the use by law enforcement of any lawful investigatory techniques.

5.26.050 Massage therapist or reflexologist – License or certificate required - Violations

A. It shall be unlawful for any person to practice massage, or represent himself or herself as a massage therapist, in the city of Olympia without a valid and current massage therapist's license.

B. It shall be unlawful for any person to practice reflexology or represent himself or herself as a reflexologist in the city of Olympia without a valid and current massage therapist's license or certificate in reflexology.

C. An unissued license or certificate, or an expired, revoked, or suspended license or certificate, shall not be considered a valid license or certificate.

5.26.060 Massage therapist or reflexologist - Owner, director, manager, or other person in charge to ensure valid license or certificate - Violation

A. It shall be the responsibility of any owner, director, manager, or other person in charge of a massage business or reflexology business in the city of Olympia to ensure that each person who practices massage, or represents himself or herself as a massage therapist, is validly and currently licensed, and to ensure that each person who practices reflexology or represents himself or herself as a reflexologist is validly and currently licensed as a massage therapist or certified as a reflexologist.

B. It shall be unlawful for any owner, director, manager, or other person in charge of a massage business or reflexology business to facilitate or, with knowledge or criminal negligence, permit a person who does not have a valid and current massage therapist's license to practice massage or represent himself or herself as a massage therapist.

C. It shall be unlawful for any owner, director, manager, or other person in charge of a massage business or reflexology business to facilitate or, with knowledge or criminal negligence, permit a person who does not have a valid and current massage therapists license or who is not a certified reflexologist to practice reflexology or represent himself or herself as a reflexologist.

D. A person with an unissued license or certificate, or whose license or certificate is expired, revoked, or suspended, shall not be considered validly licensed or certified.

E. For the purposes of this section, the failure of the owner, director, manager, or other person in charge of a massage business or reflexology business to confirm the validity of a massage license or reflexology certificate through the Washington State Department of Health shall constitute criminal negligence.

5.26.070 Display of massage therapist or reflexologist license or certificate required - Violation

A. At any massage business or reflexology business, a copy of the valid and current license of each person who practices massage or represents himself or herself as a massage therapist at or on behalf of the massage business or reflexology business, and the valid and current massage therapist's license or reflexology certificate of each person who practices reflexology or represents himself or herself as a reflexologist at or on behalf of the massage business or reflexology business, shall be conspicuously displayed and shall be made available to persons receiving massage or reflexology services or to law enforcement for inspection upon request.

B. It shall be unlawful for any owner, director, manager, or other person in charge of a massage business or reflexology business to fail to conspicuously display the valid and current massage therapist's license of each person who practices massage or represents himself or herself as a massage therapist at or on behalf of the massage business or reflexology business.

C. It shall be unlawful for any owner, director, manager, or other person in charge of a massage business or reflexology business to fail to conspicuously display the valid and current massage therapist's license or certificate to practice reflexology of each person who practices reflexology or represents himself or herself as a reflexologist at or on behalf of the massage business or reflexology business.

D. Each person who practices massage therapy or represents himself or herself as a massage therapist, and each person who practices reflexology or represents himself or herself as a reflexologist shall have his or her valid and current license or certificate at each location in which he or she practices massage or represents himself or herself as a massage therapist, and at each location in which he or she practices reflexology or represents himself or herself as a reflexologist, and the valid and current license or

certificate shall be provided to the person receiving the massage or reflexology service or to law enforcement for inspection upon request.

E. It shall be unlawful for any person who practices massage therapy or represents himself or herself as a massage therapist, to fail to have his or her valid and current massage therapist's license at each location in which massage services are provided, or display his or her valid and current license to the person receiving the massage service or to law enforcement for inspection when requested.

F. It shall be unlawful for each person who practices reflexology or represents himself or herself as a reflexologist, to fail to have his or her valid and current massage therapist's license or reflexology certificate at each location in which reflexology services are provided, or display his or her valid and current license or certificate to the person receiving the reflexology service or to law enforcement for inspection when requested.

G. It shall be unlawful for any person to present or conspicuously display an expired; altered; fake or fraudulently obtained license; certificate or certification. It shall be unlawful for an owner, director, manager or other person in charge of a massage business or reflexology business to facilitate or permit another to present or conspicuously display an expired, altered, fake or fraudulently obtained license, certificate or certification.

5.26.080 Receipt of massage or reflexology services from unlicensed massage therapist or reflexologist - Unlawful

A. It shall be unlawful for any person to receive massage services from another whom the recipient knows, or reasonably should know, is not validly or currently licensed to provide massage services. It shall be unlawful for any person to receive reflexology services from another whom the recipient knows, or reasonably should know, is not validly or currently licensed as a massage therapist or certified to provide reflexology services.

B. It shall be an affirmative defense to a violation of this section that the person receiving the massage or reflexology services inquired of the license or certification status of the person providing the services and was provided a document purporting to be a valid and current license of the massage therapist or valid and current certificate of the reflexologist.

5.26.090 Minors practicing massage or reflexology – Responsibility of owner, director, manager, or other person in charge – Receipt of massage or reflexology services from minor unlawful

A. It shall be the responsibility of the massage or reflexology business owner, director, manager, or other person in charge of a massage business or reflexology business to verify through government-issued photo identification that each person who provides massage or reflexology services has attained the age of 18. It shall be unlawful for any owner, director, manager, or other person in charge of a massage business or reflexology business to permit or facilitate the provision of massage or reflexology services by a person who has not reached the age of 18.

B. It shall be the responsibility of the massage or reflexology business owner, director, manager, or other person in charge of a massage business or reflexology business to verify through the Department of Health that each person who provides massage or reflexology services has a valid license or certification to practice as a massage therapist or reflexologist. It shall be unlawful for any owner, director, manager, or other person in charge of a massage business or reflexology business to permit or facilitate the unlicensed practice of massage or reflexology services by a person who has not reached the age of 18.

C. For the purpose of this section, a massage or reflexology business owner, director, manager, or person in charge's failure to confirm a person's age through a government-issued photo identification and massage therapist license or reflexology certification's status through the Washington State Department of Health constitutes criminal negligence.

D. It shall be unlawful for any person to receive massage or reflexology services from another whom the recipient knows, or reasonably should know, has not reached the age of 18. It shall be an affirmative defense to a violation of this section that the person receiving the massage or reflexology services inquired of the age of the person providing the services and was provided a document purporting to be a valid and current license of the massage therapist or valid and current certificate of the reflexologist.

5.26.100 Advertising

It shall be unlawful to advertise the practice of massage or practice of reflexology except in accordance with RCW 18.108.040.

5.26.110 Business Hours and Services

A massage or reflexology business is prohibited from operating between 10:00 p.m. and 6:00 a.m.

5.26.120 Practice requirements and limitations – Responsibility of owner, director, manager, other person in charge, massage therapist or reflexologist

A. It is unlawful for any person who practices reflexology, or represents himself or herself as a reflexologist, to touch the body parts identified in WAC 246-830-550(1).

B. It is unlawful for any person who practices massage therapy or represents himself or herself as a massage therapist to touch the body parts identified in WAC 246-830-550(1) unless:

1. They perform breast massage in accordance with WAC 246-830-555;
2. They perform massage of the gluteal cleft or perineum in accordance with WAC 246-830-557; or
3. They perform intraoral massage in accordance with WAC 246-830-490.

C. It is unlawful for any person who practices massage therapy or represents himself or herself as a massage therapist, or who practices reflexology or represents himself or herself as a reflexologist, to fail to comply with the coverage and draping requirements of WAC 246-830-560.

D. It is unlawful for any person who practices massage therapy or represents himself or herself as a massage therapist, or who practices reflexology or represents himself or herself as a reflexologist, to fail to comply with the equipment, sanitation, and hygiene requirements of WAC 246-830-500 and 246-830-510.

E. It is unlawful for any person who practices massage therapy or represents himself or herself as a massage therapist, or who practices reflexology or represents himself or herself as a reflexologist, to fail to comply with the recordkeeping requirements of WAC 246-830-565 and 246-830-570.

F. It is unlawful for any owner, director, manager, or other person in charge of a massage business or reflexology business to facilitate or, with knowledge or criminal negligence, permit another person to violate any provision of this section.

5.26.130 Violations - Penalty

A. The first violation of any provision of this chapter shall constitute a misdemeanor.

B. Each subsequent violation of this chapter, whether alleged in the same prosecution as the first violation or in subsequent prosecutions, shall constitute a gross misdemeanor. The Court shall impose a minimum fine of not less than \$500.00 and a minimum jail sentence of not less than five days for each such subsequent offense. Neither the mandatory minimum jail sentence nor the mandatory minimum fine shall be suspended or deferred, nor shall the jail sentence be served by alternative means.

5.26.140 State statutes and regulations adopted by reference

References to Chapters 18.108, 9A.88, and 9A.60 and sections within those Chapters of the Revised Code of Washington and Chapter 246-830 and sections within that Chapter of the Washington Administrative Code, as they appear now or are hereafter amended, are adopted by reference as though fully set forth within the Olympia Municipal Code.

Section 4. Adoption of OMC 5.02.055. A NEW SECTION 5.02.055 is hereby adopted and shall be added to Chapter 5.02 of the Olympia Municipal Code to read as follows:

Chapter 5.02 BUSINESS LICENSES

5.02.000 Chapter Contents

Sections:

- [5.02.001](#) Administrative provisions.
- [5.02.002](#) Definitions.
- [5.02.005](#) License required.
- [5.02.010](#) License term designated.
- [5.02.015](#) License fee.
- [5.02.020](#) Application and renewal.
- [5.02.030](#) Home occupations.
- [5.02.040](#) Exemptions.
- [5.02.050](#) License Denial, Suspension or Revocation.
- [5.02.055](#) Business License Process for massage or reflexology business services – reasons for denial or revocation.
- [5.02.060](#) Appeal of License Denial, Suspension or Revocation.
- [5.02.070](#) Violations -- Civil Infraction.

5.02.055 Business License Process for massage or reflexology businesses – reasons for denial or revocation

A. Upon the filing of any application for a business license registration for a massage business or reflexology business, the applicant must provide verification of his or her state issued massage license as provided for in RCW 18.108.030.

If the applicant is not a licensed massage therapist or certified reflexologist, the applicant shall provide the following information to the Director or designee upon request: (1) the identity, date of birth, and current residence of the person(s) who will be principally responsible for managing the business and each person having an ownership interest in the business, and (2) for each entity having an ownership interest in the business, the identity, date of birth, and current residence of each person possessing an ownership interest in such entity. The Director or designee shall promptly provide the applicant's information to the City of Olympia chief of police or designee. Within ten business days after receiving the same, the City of Olympia police chief or police or designee shall notify the Director or designee whether the applicant, the massage business or reflexology business manager, and (if the applicant be a corporation) the

corporation's officers and the principal shareholders, or any of the foregoing, have been convicted of violating federal, state or local laws relating to the possession, use or sale of narcotics or sexual offenses, including but not limited to Chapter 9A.88 RCW or a similar law of another state and Chapter 9A.60 RCW or a similar law of another state when such violation of Chapter 9A.60 RCW or similar law of another state is related to the operation of a massage business or reflexology business. If records available to the City of Olympia chief of police or designee indicate that any such person has been so convicted, the Director or designee shall notify the applicant, by registered letter, that the application has been denied. An applicant's failure to provide the requested information identified in this subsection to the Director or designee shall be a basis for denial of a business license.

B. Any applicant whose application has been denied on information supplied by the chief of police may appeal such decision as provided in OMC 5.02.060.

C. Within 120 days after the issuance of a business license for a massage business or reflexology business, the City of Olympia chief of police or designee shall conduct an initial inspection pursuant to OMC 5.26.040.

D. In the event a person who has obtained a City business license registration for a massage business or reflexology business is thereafter found in violation of an offense described in subsection (A) of this section, such business license may be revoked in accordance with OMC 5.02.050. Revocation may occur regardless of the jurisdiction or location in which the violation of the offense occurs. The basis for revocation of the business license pursuant to this section is in addition to any grounds for revocation listed in OMC 5.02.050.

Section 5. Amendment of OMC 18.02.180(P). Subsection 18.02.180(P) of the Olympia Municipal Code is hereby amended to read as follows:

P. DEFINITIONS – SPECIFIC.

Parcel. A parcel of land under one ownership that has been legally subdivided or combined and is shown as a single parcel on the most recent equalized assessment roll.

Park, Neighborhood. An area suited for passive and/or active family activities and play which may include facilities such as picnic table and shelters, barbecue pits, playground equipment, basketball backboards, small sized playfields, volleyball courts and tennis courts. Neighborhood parks can serve an urban design as well as recreational function and are a core feature of neighborhood centers.

Park, Public. A park, playground, swimming pool, beach, pier, reservoir, golf course or athletic field which is under the control, operation or management of the City, county, state, or federal government.

Parking, Combined. Two or more land uses or a multi-tenant building which merge parking needs to gain a higher efficiency in vehicular and pedestrian circulation.

Parking Facility or Lot. A land area, building or structure that is for the temporary parking or storage of vehicles for which a fee may or may not be charged, and where no service or repairs of any kind are furnished.

Parking Facility, Commercial. A parking facility available to the general public, for which a fee is charged on an hourly, daily, weekly, monthly, or other similar basis.

Parking, Shared. Two or more land uses or a multi-tenant building which merge parking needs based on different operating hours to gain a higher efficiency in vehicular and pedestrian circulation, economize space, reduce impervious surface and provide a superior grouping of building(s).

Parking Space. An area which is primarily intended for the temporary storage of vehicles and which meets the design requirements of this code.

Party of Record. The applicant and any person who prior to a decision has requested notice of the decision or submitted substantive comments on an application.

Passive Recreation. See Recreation, Passive.

Pedestrian-Oriented Business. A commercial enterprise whose customers commonly arrive at a business on foot, or whose signage, advertising, window display and entry ways are oriented toward pedestrian traffic. Pedestrian-oriented business may include restaurants, retail shops, personal service businesses, travel services, banks, (except drive-through windows), and similar establishments.

Pedestrian Plaza. An area between a building and a public street which promotes visual and pedestrian access onto the site and which provides pedestrian-oriented amenities and landscaping to enhance the public's use of the space for activities such as resting, gathering, reading and picnicking.

Pedestrian Street. Street devoted to uses and amenities which stimulate and reinforce pedestrian activities and visually interesting features at the pedestrian level. Uses are typically sidewalk oriented and physically and visually accessed by pedestrians from the sidewalks, are open during established shopping hours, generate walk-in pedestrian clientele and contribute to a high level of pedestrian activity. Such uses include, but are not limited to, retail shops, restaurants, personal services, day care facilities, banks, travel agencies, cinemas, theaters, amusement establishments, galleries, museums, public display spaces, drug stores, shoe repair shops, floral shops, hair shops, department stores, small hardware stores, and apparel shops. Visually interesting features include, but are not limited to, sculptures, display cases, landscaping, vendor stalls and carts, and architectural detailing.

Percolation. The downward flow or infiltration of water through the pores or spaces of rock or soil. (See also Impervious Surface.)

Performance Guarantee. A financial guarantee acceptable to the City Attorney to ensure all improvements, facilities, or work required by this ordinance will be completed in compliance with this ordinance, regulations, and approved plans and specifications.

Perimeter. The boundaries or borders of a lot, tract, or parcel of land.

Permeable pavement. Pervious concrete, porous asphalt, permeable pavers or other forms of pervious or porous paving material intended to allow passage of water through the pavement section. It often includes an aggregate base that provides structural support and acts as a stormwater reservoir.

Permitted Use. A use allowed by law in a use district and subject to the provisions applicable in that district.

Person. Any individual, firm, co-partnership, joint venture, association, social club, social organization, company, joint stock association, corporation, estate, trust, organization, business, business trust, public agency, school district, state or its political subdivisions or instrumentalities, syndicate or any group or combination thereof, acting as a unit, including any trustee, receiver or assignee.

Personal Services. A business primarily engaged in providing services generally involving the maintenance of the human body, or other services to one's person or household pets. Such businesses include, but are not limited to, barber and beauty shops, photographic studios, tanning parlors, ~~massage practitioners,~~ pet grooming, and obedience training. This does not include Medical Offices, Kennels or Veterinary Clinics. (See also Health Fitness Centers and Dance Studios.)

Personal Wireless Service. Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Telecommunications Act of 1996 and [47 U.S.C. 332](#) and future amendments thereof.

Pervious Surface. A surface material that allows stormwater to infiltrate into the ground. Examples include lawn, landscape, pasture, native vegetation areas, and permeable pavements.

Pesticide. Any chemical that is used to kill pests, especially insects and rodents.

Pet, Traditional. Animals which can be house-broken, walked on a leash, are frequently, but not necessarily, housed within the residence, or as a class judged neither obnoxious nor to pose a public safety or health threat. Traditional pet birds include song-birds and parrots.

Pharmacies and Medical Supply Stores. Businesses primarily engaged in the sale of prescription and over-the-counter drugs, plus perhaps vitamins, first-aid supplies, and other health-related products. It also includes firms primarily engaged in the sale of medical equipment such as orthopedic or prosthetic devices, or equipment for home health testing. Pharmacies which also sell a wide variety of other types of merchandise, such as beauty products, camera equipment, small consumer electronics, giftware, food items, greeting cards, toys, housewares, and/or cleaning supplies are commonly known as "drug stores," and are classified as General Merchandise Stores.

Pigeons, Performing and Racing. Pigeons which are raised and used in the sport, hobby or competition of performing or racing; which require being released for freedom of flight for purposes of training, maintaining physical conditioning or competitive performance; and which are identified by a leg band containing the name or initials of the owner, or with an identification or registration number stamped on said band. Specifically included in this category are flying tipplers, tumblers, rollers and homing or racing pigeons.

Plat. A map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions or dedications.

Plat, Final. The final drawing or map of a subdivision and dedication, prepared for recordation with the County Auditor and containing all elements and requirements set forth in RCW Chapter [58.17](#) and in the City of Olympia Subdivision Ordinance.

Plat, Preliminary. A drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks and other elements of a subdivision consistent with the requirements of this code. The preliminary plat furnishes a basis for approval or disapproval of a general layout for a subdivision.

Plat, Preliminary Approval. The official action approving a proposed division of land, normally subject to the installation of improvements or fulfillment of conditions prior to final approval.

Plat, Short. The map or representation of a short subdivision containing all pertinent information required by Titles [17](#) and [18](#) OMC, and other applicable ordinances.

Portable Classroom. An accessory building/structure used for public, private or parochial education, and located on the same site as the principal building of instruction.

Principal Use. The primary or predominant use of any lot, building or structure.

Printing, Commercial. This includes shops specializing in printing small jobs for business clients or the general public, such as photocopying, offset printing, or screen printing of documents, announcements, business cards, or the like. This also may include blueprinting, computer plotting, and similar business

services. These shops may engage in typesetting, photoengraving, plate-making, and other printing functions incidental to their primary activity; however, if they are primarily engaged in these functions as a service to other printing businesses, they are classified under Industrial Printing. Businesses which print books, magazines, newspapers, or other periodicals for others are classified under Industrial Printing.

Printing, Industrial. Businesses which print books, magazines, newspapers, or other periodicals for others. It also includes printers of maps, posters, and the like; makers of business forms, looseleaf binders, and the like; and service industries for the printing trade, such as engraving, typesetting, photoengraving, electrotyping and stereotyping, lithographic platemaking, and related services.

Private School. See School, Private.

Private Utility. A privately owned enterprise that provides the public with electricity, gas, heat, steam, communication, transportation, water, sewage and garbage collection or other similar public services.

Prohibited Use. A use that is not permitted in a zoning or land use district.

Project. A change in occupancy or modification or improvement of real estate, whether done by clearing, grading, or structure creation or modification in any manner requiring approval, licensing, or permitting by the City of Olympia.

Project Permit. Any land use or environmental permit or approval required from the City for a project [See also RCW [36.70B.020\(4\)](#)].

Project Permit Application. A formal written request to the City for a project permit or approval on forms provided by the City.

Property Line. Any line bounding the ownership of a parcel of land.

- a. Front property line. Any property line separating any parcel of land from the street rights-of-way. In case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line, provided such choice, in the opinion of the Building Official, will not be detrimental to the existing or future development of adjacent properties. In case of a through lot, both property lines abutting on a street are front property lines. In the case of a lot not abutting a street, the front property line is that line nearest to and roughly parallel with a street, provided that the Building Official may approve an alternative front line if it will not be detrimental to existing and future development. However, for historic properties or in historic districts, for properties with more than one street frontage the front property line is the one the front door of the house is historically oriented toward, unless otherwise approved by the Director.
- b. Rear property line. Any property line that does not qualify as a front or side property line.
- c. Side property line. Any property lines that intersect the front property line. These lines may intersect at any angle and be of any length. (See also Yards.)

Public Access (Shoreline). The physical ability of the general public to reach and touch the water's edge and/or the ability to have a view of the water from upland locations. There are a variety of types of public access including picnic areas, pathways and trails (including handicapped accessible), floats and docks, promenades, viewing towers, bridges, boat launches, street ends, ingress and egress, parking, and others.

Public Art. Expressionistic forms, either human-made or natural, which are located for community view on private or public property.

Public Building. Any building, structure, facility, or complex used by the general public, whether constructed by any state, county, or municipal government agency or instrumentality or any private individual, partnership, association, or corporation, including, but not limited to, assembly buildings, such as auditoriums, libraries, public eating places, schools, and theaters; business buildings, such as offices; and factories and industrial buildings.

Public Facility. Land, buildings or structures operated by a municipal or other governmental agency to provide local protective, social, recreational, cultural, or mass transportation services directly to the general public. This includes police and fire stations, libraries, recreation facilities, bus transfer stations and park-and-ride lots. It also includes public land or buildings devoted solely to the storage of equipment and materials. It does not include facilities whose primary purpose is to provide administrative or judicial services, except as they may be incidental to the defined use, nor parking lots that are accessory to uses that would otherwise not be allowed in the underlying zone.

Public Hearing. A meeting announced and advertised in advance and for the express purpose of providing the public an opportunity to comment on a specific proposed action for adoption or approval by the City.

Public Meeting. An informal meeting, hearing, workshop or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the City's decision on the permit application. A public meeting may include a design review board meeting, a neighborhood association meeting, or a scoping meeting on a draft environmental impact statement. A public meeting is distinct from and does not include an open record hearing. [See RCW [36.70B.020](#)(5)].

Public Project of Significant Importance. See OMC [18.66.090](#).

Public Safety Communications Equipment. All communications equipment utilized by a public entity for the purpose of ensuring the safety of the residents of the City and operating within the frequency range of 700 MHz and 1,000 MHz and any future spectrum allocations at the direction of the FCC.

Public Services. Fire protection and suppression, law enforcement, public health, education, recreation, environmental protection and other governmental services.

Public Use Area. An outdoor portion of a property that is dedicated to public use and which contains one or more of the following elements: benches, tables, lawns, public art, gardens, exercise or play equipment, or similar improvements or features. These elements are to provide the public with recreational activities in addition to the right to traverse or stand in this area.

Public Utility. An organization or government agency which provides the public with electricity, gas, heat, steam, communication, transportation, water, sewage or garbage collection or other essential public services.

Publishing. Businesses which publish and print on their premises books, magazines, newspapers, or other periodicals. If such establishments do not perform printing on their premises, they are classified as Business Offices.

Section 6. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 7. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 8. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

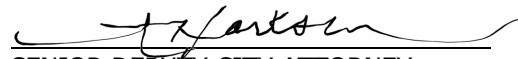
Section 9. Effective Date. This Ordinance shall take effect on October 1, 2025.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



SENIOR DEPUTY CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: