



CITY COUNCIL 345 6th Street, Suite 100, Bremerton, WA 98337 ☐ Phone (360) 473-5280

***** AMENDED *****

JULY 24, 2019

CITY COUNCIL STUDY SESSION

5:00 PM in COUNCIL CONFERENCE ROOM 603

*The Study Session is open to the public, and except for **Items B1 and D**, there will be no opportunities for input or participation; no action is anticipated; and the content of these items is subject to change. If approved by Council, the items will be placed on the **August 7, 2019 Council Meeting Agenda**.*

A. INFORMATION BRIEFING

1. Introduction & Briefing by Jeff Alevy, Executive Director for Kitsap Community Resources

B. BRIEFINGS ON AGENDA ITEMS

1. Contract with Sound Excavation, Inc. for the Demolition of Structures at 1317 N. Lafayette Avenue; and related Budget Amendment *Action is anticipated...*
2. Resolution No. 3318 authorizing Intent to Impose a Sales and Use Tax for Affordable and Supportive Housing in accordance with Substitute House Bill 1406
3. Ordinance providing for the Issuance and Sale of Limited Tax General Obligation Refunding Bonds; and delegating authority to approve Final Terms of the Bonds
4. Renewal of Agreements with West Publishing Corporation for Westlaw Research Subscriptions
5. Ordinance creating new Chapter 5.14 of the Bremerton Municipal Code entitled "Massage Businesses"; and amending Ordinance No. 5357 "City of Bremerton Rates & Fees"
6. Washington State Recreation & Conservation Office (RCO) Funding Board Project Agreement for the Warren Avenue Playfield Renovation Project
7. Ordinance amending Chapter 15.03 BMC entitled "Wastewater"
8. Professional Services Agreement with Parametrix, Inc. for Design and Construction Support Services for the Oyster Bay Beach Sewer Upgrades Project
9. Acceptance of the Pedestrian & Bicycle Safety Program State Funding Grant; and approval of the WSDOT Local Agency Agreement for the Naval Avenue (1st to 15th Street) Pedestrian & Bicycle Enhancement Project
10. Discussion of Affordable Housing Initiatives; and Determination of City Council's Code Amendment Priorities – Senior Planner Allison Satter, Department of Community Development

C. GENERAL COUNCIL BUSINESS

Public Works Committee Briefing (07/16/19 Meeting) – Chair Kevin Gorman

Lodging Tax Advisory Committee Briefing (07/22/19 Open House) – Chair Pat Sullivan

Finance, Investment, & Parking Committee Briefing (07/23/19 Meeting) – Vice Chair Kevin Gorman

Other General Council Business

D. EXECUTIVE SESSION

15-Minutes to discuss Pending Litigation, which is allowed under RCW 42.30.110 (1)(I) *Action is anticipated...*

E. ADJOURNMENT OF STUDY SESSION



Americans with Disabilities Act accommodations provided upon request. Those requiring special accommodations should contact the City Clerk's Office at (360) 473-5323 at least 24 hours prior to the meeting.

AGENDA BILL
CITY OF BREMERTON
CITY COUNCIL

B5

SUBJECT:

Ordinance No. _____ creating new Chapter 5.14 of the Bremerton Municipal Code entitled "Massage Businesses"; and amending Ordinance No. 5357 "City of Bremerton Rates & Fees"

Study Session Date: July 24, 2019
COUNCIL MEETING Date: August 7, 2019
Department: Police
Presenter: Jim Burchett
Phone: (360) 473-5224

SUMMARY: To create a new chapter, Chapter 5.14 of the Bremerton Municipal Code, relating to Massage Businesses and amend Ordinance No. 5357 relating to Rates and Fees for Massage Businesses.

ATTACHMENTS: 1) Ordinance No. _____ to create Chapter 5.14 - Massage Businesses *Updated*; 2) Exhibit *Added*

FISCAL IMPACTS (Include Budgeted Amount):

STUDY SESSION AGENDA: Limited Presentation Full Presentation

STUDY SESSION ACTION: Consent Agenda General Business Public Hearing

RECOMMENDED MOTION:

Move to pass Ordinance No. _____ creating new Chapter 5.14 of the Bremerton Municipal Code relating to Massage Businesses; and amending Ordinance No. 5357 relating to Rates and Fees for Massage Businesses.

COUNCIL ACTION: Approve Deny Table Continue No Action

ORDINANCE NO. _____

AN ORDINANCE of the City Council of the City of Bremerton, Washington, creating Chapter 5.14 of the Bremerton Municipal Code entitled “Massage Businesses and amending Ordinance No. 5357 relating to rates and fees.”

WHEREAS, the City Council desires to create a new chapter, Chapter 5.14 of the Bremerton Municipal Code, relating to massage businesses and amend Ordinance No. 5357 relating to rates and fees for massage businesses; NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF BREMERTON, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. A new chapter, Chapter 5.14, entitled "Massage Businesses" is hereby added to the Bremerton Municipal Code to read as follows:

**Chapter 5.14
MESSAGE BUSINESSES**

5.14.010 TITLE AND PURPOSE

The City of Bremerton recognizes the health and wellness benefits of massage and reflexology, and that massage and reflexology businesses in the City serve a legitimate and beneficial purpose in the community.

The City also recognizes that there are some businesses that hold themselves out as massage or reflexology businesses, but employ unlicensed persons to provide massage or reflexology who fail to follow state health and licensing requirements, and do not have the proper training required to obtain a state license or certification.

In addition, these businesses that employ unlicensed or uncertified persons to provide massage and reflexology are frequently used to facilitate the commission of various criminal acts, including but not limited to prostitution.

Businesses that permit unlicensed or uncertified persons to perform massage and reflexology or permit the commission of unlawful acts threaten the business and reputation of legitimate and licensed businesses and therapists, and present a threat to the public health, safety, and welfare.

This chapter is intended to inhibit the ability of an individual or businesses to engage in the practice of providing unlicensed massage and reflexology, support the legitimate provision of these services by licensed massage therapists and reflexologists, enable consumers to more easily identify licensed massage professionals, provide for consistent oversight of massage professionals, and regulate massage businesses in the best interests of the community.

5.14.020 DEFINITIONS.

For the purposes of this chapter, the following terms, words and phrases shall have the following meanings:

“BMC” means Bremerton Municipal Code.

“Chief of Police” means the Chief of Police of the City of Bremerton, or designee.

“City” means the City of Bremerton, Washington.

“Conviction” means an adjudication or conviction of guilt and occurs at such time as a plea of guilty has been accepted or a verdict of guilty has been filed, notwithstanding the pendency of any future proceeding including but not limited to sentencing or disposition, post-trial or post-fact finding motions, and appeals. “Conviction” also means a bail forfeiture and includes all instances in which a plea of nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended.

“Genitals” means genitals, pubic area, anus, or perineum of any person, or the vulva or breasts of female.

“Identification Card” means a current

- (1) Motor vehicle operator’s license issued by any state bearing the individuals photograph and date of birth;
- (2) Identification card issued by the State of Washington bearing the individuals photograph and date of birth;
- (3) Passport; or
- (4) Any other identification card approved by the City.

“Independent contractor” means a person or entity contracted to perform work for, or provide services to, another entity as a nonemployee. Independent contractors are subject to and pay self-employment tax consisting of Social Security and Medicare taxes.

“Manager” means any person who manages, directs, administers, or is in charge of, the affairs and/or conduct of any portion of any activity involving massage therapists occurring at any place offering massage, whether on a continuing, temporary or one-time basis.

“Massage” means the treatment of a human body by another by the external manipulation or pressure of soft tissue. Massage includes rubbing, kneading, touching, stroking, tapping or any other manipulations with or without the aids of superficial heat, cold, water, lubricants, or salts, and including the use of equipment, machinery or appliances. For the purposes of the requirements of this chapter, “massage” and “reflexology” have the same meaning.

“Massage business” means the operation of a business providing massage services, and/or reflexology services, whether as a sole proprietor or through an employee or independent contractor and whether such services are primary or secondary to the business. For the purposes of the requirements of this chapter, “massage business” and “reflexology business” have the same meaning, unless otherwise specified.

“Massage business employee” means any person who gives massages to, or attends in any other way upon, patrons of a massage business, or who supervises the work of such a person.

“Massage therapist” means a person engaged in the practice of massage. For the purposes of the requirements of this chapter, “massage therapist” and “reflexologist” have the same meaning, unless otherwise specified.

“Owner” shall mean any of the following persons:

- (1) The sole proprietor of a sole proprietorship operating a massage establishment.
- (2) Any general partner of a general or limited partnership that owns a massage establishment.
- (3) Any person who has a ten (10) percent or greater ownership interest in a corporation that owns a massage establishment.
- (4) Any person who is a member of a limited liability company (LLC), or a professional limited liability company (PLLC), that owns a massage establishment.

(5) All owners of any other type of business association that owns a massage establishment.

“Reflexologist” means a state certified reflexologist practicing reflexology.

“Reflexology” means a health care service that is limited to applying alternating pressure with thumb and finger techniques to reflexive areas of the lower one-third of the extremities, feet, hands, and outer ears based on reflex maps. Reflexology does not include the diagnosis of or treatment for specific diseases, or joint manipulations. For the purposes of the requirements of this chapter, “massage” and “reflexology” have the same meaning.

“Sole proprietor” means a massage business where the owner owns one hundred (100) percent of the business, is the only person who provides massage services for compensation for that business pursuant to a valid and active certificate, or license issued in accordance with this chapter, and has no other employees or independent contractors.

“Substantial interest” means ownership of ten percent or more of the business, or any other kind of contribution to the business of the same or greater size.

5.14.030 OWNER OR MANAGER – PROOF.

(a) For purposes of this chapter, whether a person is an owner or manager of a massage 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 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 services work or are paid, or whether those who provide massage 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 person” by the Washington State Business Licensing Service and/or the Office of the Secretary of State;
- (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 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 business;
- (11) The person is financially responsible for the massage 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; or
- (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.

(b) The presence of any of the circumstances described in subsection (a) of this section shall be sufficient to establish that a person is the owner, director, manager, or other person in charge of a massage business. The circumstances described in subsection (a) of this

section are not exclusive and other evidence may demonstrate a person is an owner or manager, or other person in charge of a massage business.

5.14.040 LICENSING PROVISIONS – APPLICABILITY AND AUTHORITY.

(a) General Business and Regulatory License. Unless otherwise specified, the general business license provisions contained in BMC 5.02 entitled “General Business Licenses” and regulatory license provisions contained in BMC 5.03 entitled “General Provisions for Regulatory Licenses”, including those procedures and processes governing the denial or revocation of any license issued under this chapter and any appeals therefrom, shall apply to this chapter, in addition to the provisions of this chapter. Applications for general business and regulatory licenses as required in this chapter shall be filed with the City Tax and Licensing Division.

(b) Administration of Chapter. The provisions of this chapter shall be administered and enforced by the Chief of Police and other authorized officials. The Chief shall have the authority to waive and/or modify requirements set forth in this chapter as deemed necessary or appropriate in order to achieve the intended purpose of this chapter.

(c) Massage and Reflexology. For the purpose of the requirements of this chapter, “massage” and “reflexology” have the same meaning, and a “reflexologist certification” shall have the same meaning as a “massage therapist’s license”, unless otherwise specified.

5.14.050 GENERAL BUSINESS AND REGULATORY LICENSE REQUIRED.

(a) It is unlawful to conduct, operate or maintain a massage, or reflexology business as an owner or manager without first applying for, receiving and possessing the following City licenses:

- (1) General business license pursuant to BMC 5.02, and
- (2) Massage business regulatory license pursuant to BMC 5.03 (hereinafter “massage business license”). A massage business license is an endorsement to the general business license.

(b) A sole proprietor or an independent contractor as defined in Section 5.14.020 above, working as a licensed therapist or certified reflexologist, is required to receive and possess a City general business license and a City massage business regulatory license.

(c) An employee of a massage business, working as a licensed massage therapist or certified reflexologist, is not required to receive and possess a City general business license and a City massage business regulatory license.

5.14.060 MASSAGE LICENSE OR REFLEXOLOGIST CERTIFICATE REQUIRED.

(a) It is unlawful for any person to perform a massage or represent himself or herself as a licensed massage therapist or for any person to practice reflexology or represent himself or herself as a certified reflexologist without first applying for and receiving a current, valid Washington State massage therapist’s license or reflexologist certification, as applicable, pursuant to RCW 18.108.030.

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

(c) For the purposes of the requirements of this chapter, a “reflexologist certification” shall have the same meaning as a “massage therapist’s license”, unless otherwise specified.

(d) Violations of this section shall be subject to the criminal penalties set forth in Section 5.14.210(b) below.

5.14.070 EXCEPTIONS.

The provisions of this chapter shall not apply to massage or reflexologist services performed in any hospital or at the athletic department of any public or private secondary school or college, or by any person who has been certified or licensed by the state of Washington to practice medicine, surgery, drugless therapy, physical therapy, osteopathy, osteopathy and surgery, chiropractic, podiatry, or nursing.

5.14.080 MASSAGE BUSINESS LICENSE – APPLICATION.

(a) All applications for a massage business license shall be submitted on a form supplied by the City, which is in addition to the information required for a general business license under BMC 5.03.040, and shall require the:

- (1) Names,
- (2) Addresses,
- (3) Telephone numbers,
- (4) Current identification cards as defined in Section 5.14.020 above, and
- (5) Current passport-size color photographs,

of all owners, partners, shareholders, managers, or other persons who have a substantial interest or management responsibilities in connection with the business (“Applicant”) specifying the interest or management responsibility of each;

(b) The application shall include the:

- (1) Names,
- (2) Therapist’s license(s),
- (3) Current identification cards as defined in Section 5.14.020 above; and
- (4) Current passport-size color photographs,

of all massage therapists employed or to be deployed or retained by the applicant.

(c) The application will include a statement attesting to the following:

(1) The applicant will only employ or retain massage therapists licensed by the State of Washington, and failure to comply may result in the suspension or revocation of the massage establishment permit.

(2) The applicant authorizes the City to investigate the background of all owners, partners, shareholders, or other persons who have a substantial interest or management responsibilities in connection with the business and to investigate the truth of the information contained in the application.

(3) The applicant will be responsible for the conduct of all massage therapists, employees, or independent contractors, or other representatives while such persons are on the premises of the massage business, and that failure to comply with the provisions of this chapter and any federal, state or local law, may result in the suspension or revocation of the massage business license.

(4) The applicant certifies under penalty of perjury that all information contained in the application is true and correct.

(d) All applicants must consent to be fingerprinted for criminal background checks as follows:

(1) At the time of initial application, the applicant shall submit fingerprints to the Bremerton Police Department. The Bremerton Police Department will forward the

fingerprints to the Washington State Patrol to conduct a state and nationwide criminal background check pursuant to RCW 35.21.920. Applicants shall be assessed a nonrefundable criminal background check fee payable to the Washington State Patrol at the time the background checks are requested and the fingerprints are provided. The applicant shall also be responsible for paying a fee for each fingerprinting. The fees for these services are set forth in Chapter 3.01 BMC.

(2) At the time of the applicant's renewal of a license, the Chief of Police will conduct a local criminal history check and may require, pursuant to RCW 35.21.920, a state and nationwide background check of each applicant at the time of renewal application. The applicant shall be responsible for paying any fees as set forth in Chapter 3.01 BMC.

(e) The Chief of Police, Chief of Fire, and Director of Community Development, within the jurisdiction and duties of their particular department, shall ascertain whether or not the premises to be used are suitable, proper and adequate, and comply with applicable laws, ordinances and regulations concerning such premises, and the activities to be conducted thereon.

5.14.090 DENIAL, SUSPENSION OR REVOCATION OF LICENSE.

In addition to the grounds for denial or revocation of a general business license established under BMC 5.02.180 and the massage business license established under BMC 5.03.060, the City may deny any new application for, or renewal of, a general business or massage business license, or suspend or revoke a general business or massage business license, if the City determines that within three years prior, the applicant or any partner, corporate officer, shareholder, or other person who has a substantial interest or management responsibilities in connection with the business:

(a) Failed to comply with applicable laws, ordinances, and regulations or failed to comply with the standards of conduct or operating requirements of this chapter in connection with a massage business;

(b) Employed, contracted with, or allowed persons who, within a period of one year, have been convicted of prostitution, consumer fraud, or related crimes stemming from activities conducted on the premises of a massage business;

(c) Had any convictions or bail forfeitures which have a direct connection with operating a massage business, including but not limited to theft, controlled substances, prostitution, promoting or permitting prostitution, sexual offenses, consumer fraud, or obscenity;

(d) Had a massage business or license suspended or revoked by the City or by any other jurisdiction; or

(e) Received penalties pursuant to RCW 18.108.035.

5.14.100 DENIAL, SUSPENSION AND REVOCATION - PROCEDURE.

(a) Any application for the issuance or renewal of a general business license and a massage business license issued under this chapter may be denied, or any license issued under this chapter may be suspended or revoked based on one or more violations of the provisions of this chapter.

(b) The Chief of Police shall have the power and authority to deny the issuance of or suspend or revoke any license issued under the provisions of this chapter. The Chief shall notify such licensee in writing by certified mail or personal service of the denial or revocation of his or her license application or license and the grounds therefore.

(c) Any applicant or licensee may, within fourteen (14) calendar days from the date that the denial, suspension, or revocation notice was mailed, delivered or served to the applicant

or licensee, appeal from such denial or revocation by filing a written notice of appeal setting forth the grounds therefore with the Administrative Hearing Examiner pursuant to Chapter 2.13 BMC. A filing fee as set forth in Chapter 3.01 BMC shall be submitted with the appeal, which filing fee is required to process the appeal. The hearing shall be conducted in accordance with the procedures for hearing contested cases set out in Chapter 2.13 BMC. After the hearing thereon the Administrative Hearing Examiner shall, after appropriate findings of fact, and conclusions of law, affirm, modify, or overrule the denial, suspension or revocation and order issuance or reinstatement of the license, and may impose any terms thereupon.

(d) The decision of the Administrative Hearing Examiner shall be final. The applicant or licensee and/or the City may seek review of the decision by the Superior Court of Washington in and for Kitsap County within twenty-one (21) calendar days from the date of the decision. If review is sought as herein prescribed the renewal, suspension or revocation shall be stayed pending final action by the Superior Court.

(e) When revoked, the license shall be canceled and immediately surrendered to the Director of Community Development and the massage business shall cease operations, unless otherwise authorized by the Administrative Hearing Examiner or the decision is stayed pending appeal as provided for in this section. Upon revocation of any license as provided in this chapter no portion of the license fee shall be returned to the licensee.

(f) Upon denial of a license, the massage business shall cease any operations, unless otherwise authorized by the Administrative Hearing Examiner or the decision is stayed pending appeal as provided for in this section.

(g) Upon suspension of a license, the massage business shall cease operations until cured as approved by the Chief of Police, unless otherwise authorized by the Administrative Hearing Examiner or the decision is stayed pending appeal as provided for in this section.

(h) Upon denial or revocation, the person whose application was denied or license revoked shall not be granted a license for a business, upon any new application that may be made, for a period of ninety (90) calendar days from date of denial or revocation and further, no license shall be issued until such person cures any defaults that resulted in the denial or revocation.

5.14.110 LICENSE TERM AND EXPIRATION

Each massage business license issued or renewed under the provisions of this chapter shall be granted annually for one year terms expiring December 31st of each calendar year, unless suspended, revoked, or closed. Failure to renew shall invalidate the license and all privileges granted to the licensee.

5.14.120 LICENSE FEES.

Applicants granted a massage business license under this chapter shall pay the City fees prior to the issuance of their license in accordance with BMC 3.01.010 - Rates & Fees, and the corresponding fee schedule maintained by the City of Bremerton Clerk and posted on the City of Bremerton website. The license application fee will be reduced by one-half of the fee for applications received for businesses which begin operation between July 1st to December 31st of the calendar year for which the license is to be issued and is nonrefundable whether or not the license application is later denied.

5.14.130 TRANSFER OF LICENSE AND CHANGE OF LOCATION.

No massage business license issued under this chapter shall be transferable from one person or entity to another person or entity. Upon the sale or transfer of an interest in a massage business, a license shall become null and void. A new application shall be made by any person desiring to operate or maintain the establishment.

5.14.140 CHANGE IN MASSAGE PRACTITIONERS.

The applicant for a massage business license shall have the continuing obligation to notify the City of any changes in massage therapists employed or retained by the applicant within ten (10) days of such change and to provide the information required for any new massage therapist pursuant to Section 5.14.080(b) above.

5.14.150 OWNER AND MANAGER LICENSE REQUIREMENTS – VIOLATION.

(a) It is unlawful for any owner or manager of a massage business to 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 or to permit a person who does not have a current reflexologist certification to practice reflexology or represent himself or herself as a certified reflexologist. It shall be the responsibility of any owner or manager of a massage business to ensure that each person who practices massage, or represents himself or herself as a massage therapist, or to practice reflexology or represent himself or herself as a certified reflexologist, to confirm the validity of a massage therapist’s license through the Washington Department of Health.

(b) Violations of this section shall be subject to the criminal penalties set forth in Section 5.14.210(c) below.

5.14.160 DISPLAY OF LICENSE REQUIRED – VIOLATION.

(a) A passport-size photograph of:

- (1) The licensee of the massage business shall be affixed to the massage business license on display pursuant to this section, and
- (2) Each licensed massage therapist shall be affixed to his or her Washington State massage therapist’s license on display pursuant to this section.
- (3) For purposes of this section, a reflexologist certification shall have the same meaning as a massage therapist’s license and be subject to the same requirements herein.

(b) A massage therapist or a reflexologist must conspicuously display his or her credentials in his or her principal place of business. If the licensed massage therapist or certified reflexologist does not have a principal place of business or conducts business in any other location, he or she must have a copy of his or her credentials available for inspection to persons receiving massage services or to a law enforcement or code compliance officer upon request while performing services within his or her authorized scope of practice. For purposes of this section, credentials include:

- (1) An identification card as defined in Section 5.14.020 above;
- (2) A Washington State massage therapist license; and
- (2) A general business license with the massage business endorsement, if the owner or manager of a massage business.

(c) It is unlawful for any owner or manager of a massage business to fail to:

- (1) Conspicuously display the valid and current massage business license,

(2) 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

(3) Make available the massage business license or massage therapist's license for inspection to persons receiving massage services or to a law enforcement or code compliance officer upon request.

(d) It is unlawful for any person who practices massage 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 provide his or her valid and current license to the person receiving the massage service or to law enforcement for inspection when requested.

(e) It is 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 or manager of a massage business to permit another to present or conspicuously display an expired, altered, fake, or fraudulently obtained license, certificate, or certification.

(f) Violations shall be subject to the criminal penalties set forth in Section 5.14.210(d) below.

5.14.170 STANDARDS OF CONDUCT AND OPERATION – VIOLATIONS.

Every owner or manager in charge of a massage business shall exercise close supervision over the acts of massage therapists or other persons employed on the premises, including independent contractors. The acts of massage therapists or other employees or independent contractors, when in violation of this chapter may constitute grounds for revocation or suspension of the massage business license.

(a) It shall be the responsibility of the owner or manager in charge of a massage business to verify that each person who provides massage services has attained the age of eighteen (18). It is unlawful for any owner or manager to permit a person who has not reached the age of eighteen (18) to provide massage services. Any person who is employed by a massage business must present documentation that he or she has attained the age of eighteen (18) years when an inspection pursuant to this chapter is conducted. Any identification card as defined in Section 5.14.020 above shall be accepted as documentation of age.

(b) The owner or manager shall ensure that at least one validly licensed massage therapist must be on the premises all times during the hours a massage business is open for business, and/or during the presence of patrons.

(c) The owner or manager shall post in a prominent place on the premises and/or on the business website a list of all services offered with a brief description of what the service entails along with the costs of such service(s). All business transactions with the customers must be conducted in accordance with said posted list. Any services rendered, which are not so listed, may be grounds for revocation or suspension of the massage business license.

(d) The owner or manager shall ensure that doors to individual massage rooms or enclosures shall not be fitted with locks or any device intended to prevent the opening of such doors so as to prevent reasonable access by such authorities who announce their authority to enter prior to inspection. Doors of individual massage rooms shall not be locked at any time during a massage therapy session

(e) It shall be unlawful for the owner or manager to admit anyone under the age of eighteen (18) years of age and permit them to remain in or about such premises, unless such person is accompanied by or presents the written consent of his or her parent or legal guardian.

(f) It shall be unlawful for any owner, manager or massage therapist, or any employee or agent to knowingly permit to be or remain in or about such premises any prostitute or to perform or allow to be performed any act, massage or manipulation in which contact is made with another's genital areas either by hand, body or by any mechanical device or object, whether it is covered or uncovered; clothed or unclothed, in whole or in part.

(g) Pursuant to, or unless otherwise authorized by WAC 246-830-550 and 555, adopted and incorporated herein by this reference as currently enacted and hereinafter amended, no massage for compensation shall be provided unless the client's genitals are at all times fully covered. While engaged in massage for compensation, a massage professional shall not make, or offer to make, physical contact with the genitals of any other persons regardless of whether the contact is over or under the persons' clothing nor shall the massage professional permit, or offer to permit, the client to make physical contact with the genitals of the massage professional regardless of whether the contact is over or under the massage professional's clothing.

(h) Pursuant to, or unless otherwise authorized by WAC 246-830-560, adopted and incorporated herein by this reference as currently enacted and hereinafter amended, it shall be unlawful for any owner, manager, massage therapist, or any employee to disrobe or be partially disrobed or to be dressed in attire that is transparent, see-through, or substantially exposes the massage therapist's undergarments, swim attire, or in a manner that exposes the massage therapist's breasts, buttocks, or genitals.

(i) The owner or manager shall have the premises supervised at all times when open for business.

(j) All payment for services shall be exchanged in a reception room or other central area, if any, and not within any of the massage rooms.

(k) Violations of this section shall be subject to the criminal penalties set forth in Subsections 5.14.210(d) below.

5.14.180 INSPECTIONS.

(a) All licensees shall allow any code compliance officer, or representative from the Kitsap Health District or the Bremerton Fire Department entry to the premises upon presentation of proper identification, for purposes of inspecting the premises to determine that the provisions of this chapter are continually being met. All inspections shall be conducted during the hours the massage business is open for business.

(b) Pursuant to RCW 18.108.190, adopted and incorporated herein by this reference, as currently enacted and hereinafter amended, law enforcement personnel shall have the authority to inspect the premises at any time including business hours.

5.14.190 INTERFERENCE WITH INSPECTIONS – VIOLATIONS.

(a) Any business required to be licensed under this chapter shall not install any device that is designed as an internal warning system and no persons shall use any device for alerting persons in other portions of the building.

(b) Except for a sole proprietor who is providing services from their personal residence, or as otherwise approved by the Chief of Police, the owner or manager of the massage business shall not permit exterior entry doors to be locked while open for business, or require a buzzer or bell for entry.

5.14.200 PREMISES - HOURS OF OPERATION – VIOLATION.

No massage business shall be kept open for business between the hours of ten p.m. (10:00 p.m.) and seven a.m. (7:00 a.m.). Clients shall be permitted in the massage establishment only during the hours of operation.

5.14.210 PENALTIES.

(a) Any person who operates, manages or maintains a massage business without first applying for and receiving a City general business license and a City massage business license pursuant to Section 5.14.050 above, shall be subject to fines, penalties, and enforcement pursuant to BMC 5.02.190 or BMC 5.03.140, as applicable.

(b) Any person who performs a massage for compensation or represents himself or herself as a massage therapist without a valid Washington state massage therapist’s license or to provide reflexologist services for compensation or represent himself or herself as a reflexologist without a valid Washington state massage reflexologist certificate as required in Section 5.14.060 above, shall be guilty of a gross misdemeanor pursuant to RCW 18.130.190(7)(a), adopted and incorporated herein by this reference, as currently enacted and hereinafter amended. It is the City’s intention that a conviction under this section shall be a predicate offense for subsequent prosecution in accord with RCW 18.130.190(7)(a) and (7)(b).

(c) Any owner or manager of a massage business who permits 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, or to permit a person who does not have a valid and current massage reflexologist certificate to provide reflexologist services or represent himself or herself as a reflexologist as required in Subsection 5.14.150 above, shall be guilty of a misdemeanor, and for subsequent violations, a gross misdemeanor, pursuant to RCW 18.108.035, adopted and incorporated herein by this reference, as currently enacted and hereinafter amended.

(d) Any person violating any other provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof, be punished by a fine not to exceed \$1,000.00 or by confinement in jail for a term not to exceed ninety (90) days, or by both such fine and confinement.

5.14.220 ADDITIONAL ENFORCEMENT.

Notwithstanding the existence or use of any other remedy, the City may seek legal or equitable relief to enjoin any acts or practices which constitute or will constitute a violation of any provisions of this chapter.

SECTION 2. *Rates and Fees Established.* Ordinance No. 5357 establishing rates and fees is hereby amended by amending the rates and fees in rate Table L entitled “Police Department” and rate Table O entitled “Tax & License” by establishing and adding new rates and fees for massage businesses as set forth in **Exhibit A**, attached hereto and incorporated herein by reference.

SECTION 3. *Corrections.* The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener, clerical, typographical, and spelling errors, references, ordinance numbering, section/subsection numbers and any references thereto.

SECTION 4. Severability. If any one or more sections, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

SECTION 5. Effective Date. This ordinance shall take effect and be in force ten (10) days from and after its passage, approval and publication as provided by law.

PASSED by the City Council the _____ day of _____, 2019.

ERIC YOUNGER, Council President

Approved this _____ day of _____, 2019.

GREG WHEELER, Mayor

ATTEST:

APPROVED AS TO FORM:

ANGELA WOODS, City Clerk

ROGER A. LUBOVICH, City Attorney

PUBLISHED the _____ day of _____, 2019.

EFFECTIVE the _____ day of _____, 2019.

ORDINANCE NO. _____

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