

ORDINANCE NO. 2019-4971

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, REPEALING CHAPTER 20 – MASSAGE ESTABLISHMENTS; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in a continuing effort to review and update the City's Code of Ordinances, Staff recommends Council repeal Chapter 20 – Massage Establishments of the Code of Ordinances;

Whereas, currently massage establishments operating in the City must obtain a license from the City Secretary's office before beginning operations and the license must be renewed each year - Chapter 20 allows for the inspection of massage establishments by City Staff, sets requirements for hours of operation, and includes certain sanitary requirements for these types of establishments;

Whereas, Chapter 455 of the Texas Occupations Code also regulates the operation of massage establishments and the practice of massage therapy - Section 455.005 states that the regulations in Chapter 455 supersede any regulation adopted by a city relating to the licensing and regulation of massage therapists, except that a city may continue to regulate zoning requirements and adopt regulations authorizing an investigation into the background of an owner or operator of a massage establishment;

Whereas, Section 455.005 clearly states that the City's regulations are preempted by the State regulations found in the Texas Occupations Code - for this reason, Staff is recommending the repeal of Chapter 20;

Whereas, once repealed Chapter 20 will be retitled "Chapter 20 – Reserved"; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Part 2: The City Council repeals Chapter 20 – Massage Establishments.

Part 3: All Ordinances or parts of Ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

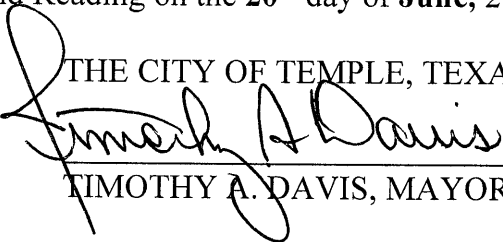
Part 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid phrase, clause, sentence, paragraph or section.

Part 5: This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

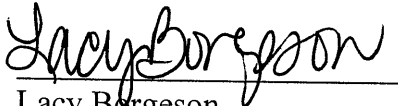
Part 6: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

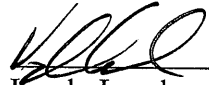
PASSED AND APPROVED on First Reading and Public Hearing on the 6th day of June, 2019.

PASSED AND APPROVED on Second Reading on the 20th day of June, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, MAYOR



ATTEST:

Lacy Bergeson
City Secretary

APPROVED AS TO FORM:

Kayla Landeros
City Attorney