

ORDINANCE NO. 2023-08

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, AMENDING CHAPTER 3 ZONING DISTRICTS AND USES AS SET FORTH IN THE CITY'S CODE OF ORDINANCES; PROVIDING FOR A DEFINITION OF A MASSAGE ESTABLISHMENT; PROVIDING FOR HOURS OF OPERATION; PROVIDING FOR EXEMPTIONS; PROVIDING FOR CODIFICATION, PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council finds it is in the public's interest to establish policies and procedures to allow for consistent, flexible, creative, and economically beneficial development within the City of Westlake.

WHEREAS, on September 23, 2019, the City Council of the City of Westlake adopted Ordinance 2019-9 which established a zoning district and set forth standards for the zoning district;

WHEREAS, the City's Planning Consultants recommend that the Code of Ordinances, specifically Ordinance 2019-9 be amended to create and establish regulations for Massage Parlors.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY FOR THE CITY OF WESTLAKE, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals. The foregoing recitals are confirmed, adopted and incorporated herein and made a part hereof by this reference.

SECTION 2. The City Council hereby amends Ordinance No. 2019-9 by amending Article ___ Table 3-20 of Permitted Uses, is hereby amended as provided in the attached "Table 3-20 Permitted Uses". Creating Section___entitled "Massage Establishment" to read as follows:

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Massage establishment means any shop, establishment or place of business which is a massage establishment as defined by F.S. § 480.033(7) which [statute-Section of Chapter 480 of the Florida Statutes](#) is adopted and incorporated in this article by reference.

Massage establishment

~~(1) Any shop, parlor, establishment or place of business wherein all or any one or more of the following named subjects and methods of treatments are administered or practiced: Body massage either by hand or by any mechanical or electrical apparatus or device (excluding fever therapy), applying such movements as stroking, friction, rolling, vibration, kneading, cupping, petrissage, rubbing, effleurage or tapotement.~~

~~(12)~~ Nothing in this section shall be construed as applying to State of Florida licensed ~~massage therapists,~~ barbers, cosmetologists, manicurists, pedicurists, physical therapists' assistants, midwives, practical nurses, agents, servants or employees in licensed hospitals or nursing home or other licensed medical institutions, licensed physicians, osteopaths, chiropractors, podiatrists, naturopathic physicians or other licensed medical practitioners,

or their agents, servants, or employees acting in the course of such agency, service or employment under the supervision of the licensee.

- (3) Provided, however, that, for the purpose of this section, the term "massage establishment" shall not include any massage establishment wherein at least one State of Florida licensed massage therapist is employed and on duty full time during the hours open for business.

Sec. ____ . Operation generally.

It shall be unlawful to operate or conduct a shop, establishment or place of business outside the hours of 8:00 a.m. to 7:00 p.m. weekdays only or otherwise determined by the City Council, in which there is practiced massage as defined by F.S. § 480.033(3) except in a massage establishment as defined by F.S. § 480.033(7), pursuant to all requirements of F.S. ch. 480, which ~~statutes Chapter of the Florida Statutes is~~ are-adopted and incorporated in this article by reference.

Sec. ____ . Employees.

A massage establishment shall have in its employ and shall have on duty full-time during the hours open for business at least one registered massage therapist having in his or her possession a certificate of registration and current certificate of renewal duly authorized by the state board of massage. A massage establishment may have apprentices certified by the state board of massage, the number of which may not exceed the number of registered ~~masseurs and masseuses~~ massage therapist employed in the massage establishment. Failure to meet the requirements of this section shall be deemed a violation.

Sec. ____ . Certificate of registration.

It shall be unlawful for any person to engage or attempt to engage in the practice of massage for fee, or for gratuity, or to teach massage without having in his or her possession a certificate of registration and a current certificate of renewal issued by the state board of massage.

Sec. ____ . Exemptions.

This article shall not be deemed or held to apply to:

- (1) Persons lawfully practicing the profession of medicine and surgery within the state while actually engaged in the practice of such profession.
- (2) Commissioned medical surgical officers of the United States Army, Navy, Public Health or Marine Hospital Service while engaged in the performance of their official duties.
- (3) Persons lawfully practicing the profession of chiropractic, osteopathy or naturopathy within the state while actually engaged in the practice of any of those professions.
- (4) Graduate nurses while performing their professional duties, and hospital attendants while performing services for resident patients of any hospital.
- (5) Hospitals lawfully operating within the city.
- (6) Such other professions or vocations as may be provided from time to time by state law.

Sec. ____. Advertisements of unlicensed operators or establishments prohibited.

It shall be unlawful for any person to display or cause to be displayed within the city any sign, placard or newspaper advertisement whereby public patronage of any massage operator or massage parlor or establishment is solicited, either directly or indirectly, or whereby the public is given notice of the address or telephone number of any massage operator or massage establishment, unless the massage operator or the massage parlor or establishment for whom such public patronage is thereby solicited or the massage operator or massage parlor or establishment whose address or telephone number is thereby given shall be duly licensed under the provisions of this article.

Sec. ____. ~~Operator's license required~~Business Tax Receipt.

It shall be unlawful for any person in the city to engage in, follow or practice, or attempt to engage in, follow or practice the business, profession or occupation of massage operating unless such person shall have first obtained ~~a license or permit as a licensed massage operator~~ a business tax receipt issued by the city clerk.

Sec. ____. License Display

Every person licensed under the provisions of this article who shall conduct or manage, as owner or proprietor, any place or establishment shall display a sign upon which the words "~~icensed massage operator,~~" "~~icensed masseur,~~" "~~icensed masseuse~~" or "licensed massage establishment" shall be conspicuously and legibly set forth in the English language in such manner that the words may readily be seen by persons entering the premises where massage is given.

Sec. ____. Inspection required annually; prosecution of violations.

The City Code Enforcement Department inspectors are authorized to at least once a year and at such other time that shall seem necessary or expedient to enter upon any premises where a massage parlor or establishment is maintained in the city and inspect such parlor or establishment for the purposes of enforcing the provisions of this article.

TABLE 3-20: PERMITTED USES

(Excludes PDs)

USE	R-1	R-2	CV	MU	TC	OSR	M D
Residential Use Types:							
Single family attached dwellings	p	p		p	p		
Single family detached dwellings	p	p					
Mobile homes	p						
Accessory dwelling units	p	p		p			

TABLE 3-20: PERMITTED USES

(Excludes PDs)

USE	R-1	R-2	CV	MU	TC	OSR	MD
Multi-family dwellings		P		P	P		
Assisted living facilities		C		P	P		P
Foster care facilities and group homes		C					
Religious Uses:							
Religious Uses	C	C	P	P			P
Educational Uses:							
Public or Private Primary and Secondary Schools			P	P			
Vocational and Technical Schools			P	P			P
Colleges and Universities			P	P			
Child or Adult Care Center	C	C	P	P			P
Recreational Uses:							
Neighborhood Parks	C	P	P	P		P	
Community Parks			P	P		P	
Amenity Center	P	P		P			
Commercial recreation uses				P		P	
Outdoor amphitheaters				P	P		

Stadiums, Arenas, an d Sports Complexes			p	p		p	
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TABLE 3-20: PERMITTED USES

(Excludes PDs)

USE	R-1	R-2	CV	MU	TC	OSR	MD
Golf Courses	C	C				P	
Conservation Uses:							
Conservation uses	P	P	P	P		P	
Civic Uses:							
Civic uses (see definition in Chapter 1)			P	P		P	
Commercial Uses:							
Retail Sales or Service				P	P		
Athletic Training Facility				P			
Neighborhood Center	P	P					
Hotels, motels, other accommodation services				P	P		
Motor vehicle repair and/or service establishments, gasoline stations, and car washes.				P			
Bars and Night Clubs include those with live entertainment open to the general public				P	P		
Bowling Alleys, Billiards, Miniature Golf, and similar indoor or outdoor recreational facilities				P	P		

Museums, Art Gallery, Auditorium, theatres				p	p		
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TABLE 3-20: PERMITTED USES

(Excludes PDs)

USE	R-1	R-2	CV	MU	TC	OSR	MD
including open air theaters and cinemas, and similar cultural uses.							
Funeral Homes, Crematorium, Mausoleum, Death care services				p			
Office				p	p		p
Veterinary (including indoor overnight stays only for patients that require overnight care as a result of a medical procedure)				p	p		
Overnight Kennel, including kennels ancillary to veterinary services				c			
Food Service, Restaurants, and cafes, including those with live entertainment (but excluding those with drive through service)				p	p		p

Restaurants and cafes with drive through service				p	p		
Mobile food services				p	p		p

TABLE 3-20: PERMITTED USES

(Excludes PDs)

USE	R-1	R-2	CV	MU	TC	OSR	MD
Microbreweries or Craft Brewery (Beer & Cider)				p	p		
Craft Distillery (Spirits)				p	p		
Self-Storage Facility				p			
Sexually oriented business				c			
Pawn Shop				p	p		
Tattoo Shop				p	p		
Liquor Store				p	p		
<u>Massage Establishment</u>				c			
Auto Sales				p	p		
Outdoor Shooting Range							
Medical Uses:¹							
Hospital							p
Pharmacy and Dispensary				p	p		p
Medical or Dental Office				p	p		p
Behavioral Health Center							p
Inpatient Rehabilitation Center							p
Free Standing Emergency Department							p
Medical marijuana dispensary							p

Emergency Department (Linked to Hospital)							p
Child Birth Center							p

TABLE 3-20: PERMITTED USES

(Excludes PDs)

USE	R-1	R-2	CV	MU	TC	OSR	MD
Surgical Facilities (excluding in-office dental and eye surgical facilities)							p
Cardiac Catheterization Laboratory							p
Chemotherapy and Radiation/Cancer Center Treatment							p
Medical Infusion Center							p
Hyperbaric Oxygen and Wound Care Treatment Facility							p
Imaging, Diagnostic, Therapeutic, and Laboratory Services							p
Proton Center							p
Urgent Care Center							p
Hospitality House for Patients (and/or Patients' Families)				p	p		p
Light Industrial Uses							
Light industrial uses				p			
Other Uses:							
Institutional uses not otherwise listed in this table				p			p

Jail or Detention Center Not Owned by City of Westlake							
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TABLE 3-20: PERMITTED USES

(Excludes PDs)

USE	R-1	R-2	CV	MU	TC	OSR	M D
Agricultural uses (FLU Policy 1.2.2)			C			C	
Essential facilities and services	P	P	P	P	P	P	P
Utilities	P	P	P	P	P	P	P
Wireless communication facility			C	C	C	C	
Helipad and Helistop				P			P
Parking Structures		P	P	P	P	P	P
Accessory Uses	P	P	P	P	P	P	P
Key: P = Permitted Use C = Conditional Use 1. Uses that are incidental and ancillary to a permitted medical use, such as in house imaging or laboratory services, are permitted as part of and in the same location as the permitted medical use, even where such incidental or ancillary services would not be permitted as a standalone use.							

SECTION 3. Codification. It is the intention of the City Council of the City of Westlake that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Westlake, Florida, and that the Sections of this Ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article" or such other word or phrase in order to accomplish such intention.

SECTION 4. Conflicts. All ordinances or parts of ordinances, resolutions or parts of resolutions which are in conflict herewith, are hereby repealed to the extent of such conflict.

SECTION 5. Severability. Should the provisions of this ordinance be declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall remain notwithstanding the invalidity of any part.

SECTION 6. Effective Date. This ordinance shall be effective upon adoption on second reading.

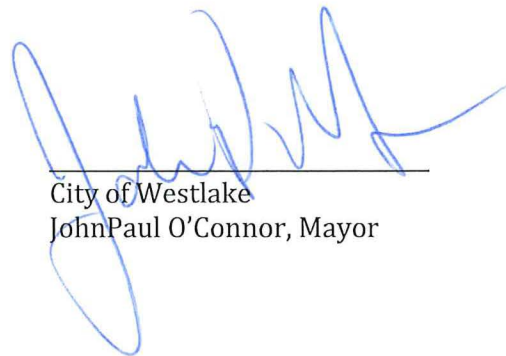
PASSED this 5th day of December 2023, on first reading.

PUBLISHED on this 15th day of December 2023 in the Palm Beach Post.

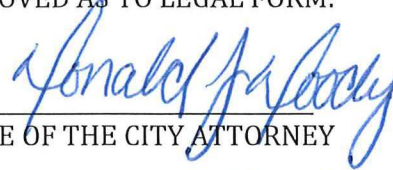
PASSED AND ADOPTED this 8th day of January, 2024, on second reading.

ATTEST:

Zoie Burgess, City Clerk



City of Westlake
John Paul O'Connor, Mayor

APPROVED AS TO LEGAL FORM:


OFFICE OF THE CITY ATTORNEY
2023-08