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CITY OF LYNNWOOD  
ORDINANCE NO. 1834

City of Lynnwood  
DEC 18 2000  
**SCANNED**

**AN ORDINANCE ADDING A NEW CHAPTER TO THE LYNNWOOD MUNICIPAL CODE  
LICENSING AND REGULATING PUBLIC BATHHOUSES**

WHEREAS, most of the existing provisions of the Lynnwood Municipal Code regulating massage parlors and public bathhouses have been repealed due to recent State legislation;

WHEREAS, certain practices and conditions associated with public bathhouses are injurious to public health, safety, morals and welfare and regulation of such establishments and workers thereof is necessary in the interest of public health, safety, morals and welfare,

NOW, THEREFORE, for the purpose of promoting the public health, safety, morals, and welfare,

THE CITY COUNCIL OF THE CITY OF LYNNWOOD DOES ORDAIN AS FOLLOWS:

Section 1.        New Chapter Added to LMC. A new Chapter 5.51 is added to the Lynnwood Municipal Code to be entitled "PUBLIC BATHHOUSES".

Section 2.        Definitions. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.010 DEFINITIONS.

A. For the purpose of this Chapter, the following terms, words and phrases shall have the following meanings:

1. "Public Bathhouse" means any place not exempted from the provisions of this Chapter where baths or facilities for baths of any kind whatsoever, are given or furnished.
2. "Bath(s)" shall include, but is not limited to, the following: Finnish baths; Russian baths; sauna baths; Swedish baths; Turkish baths; baths by hot air, steam, vapor, hot or cold water, or electric cabinet; hot tub; jacuzzi; whirlpool.
3. "Person" means any individual, firm, partnership, association, corporation, company, or organization of any kind.

4. "Authorized Health Care Practitioner" has the same meaning as set forth in RCW 18.74.010(7) as now existing or hereafter amended, provided that the administration of bath treatments is within the scope of such person's State license. One copy of RCW 18.74.010 shall be on file with the Lynnwood City Clerk.
  5. "Worker" means employee or independent contractor whose personal labor is the essence of the contract.
- B. All references herein to the masculine gender shall include the feminine, and the feminine the masculine; all references to the singular shall include the plural, and the plural the singular.

Section 3. Exemptions. A new Section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.020 EXEMPTIONS

The provisions of this Chapter shall not apply to:

- A. Baths given in any licensed:
  1. Hospital, nursing or convalescent home;
  2. Business establishment of an authorized health care practitioner;
  3. Business establishment of a massage practitioner licensed by the City of Lynnwood, when the administration of bath treatments is within the scope of his required State license;
- B. Ordinary tub or shower baths where an attendant is not required;
- C. Baths given or furnished on the premises of a single or multiple family residence when:
  1. No fee or other consideration is charged;
  2. Such baths are given by a licensed nurse, physical therapist, occupational therapist, or massage practitioner who is giving a bath treatment pursuant to a written prescription from an authorized health care practitioner.
- D. Facilities for baths furnished as an incidental part of:
  1. The operation of a hotel, as the same is defined in LMC 5.70.010, or lodging house;
  2. A municipal recreation center;

3. A private social or athletic club not open to the public generally.

Section 4.      License Required. A new Section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.030 PUBLIC BATHHOUSE LICENSE AND INSURANCE REQUIRED.

It shall be unlawful to conduct, operate, or maintain a public bathhouse unless such establishment is licensed as herein provided and is covered by a liability insurance policy in a minimum amount of Three Hundred Thousand Dollars (\$300,000.00). The licensee shall notify the City Clerk in writing, of any cancellation of said insurance policy within three (3) days of receiving notice that the required policy has been canceled. Failure to so notify the City Clerk shall be grounds for license suspension or revocation.

Section 5.      Fees. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.040 FEES

The fee for a public bathhouse license shall be Forty Dollars (\$40.00) per year, plus \$4.50 for each worker therein. Upon initial application for a public bathhouse license, the applicant shall also pay a Ten Dollar (\$10.00) non-refundable investigation fee.

Section 6.      Applications. A new Section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.050 APPLICATION FOR AND RENEWAL OF PUBLIC BATHHOUSE LICENSE

NO license or renewal of license to conduct a public bathhouse shall be issued or renewed except upon written application to the City Clerk which shall be signed and sworn to by the person who intends to conduct, operate or maintain a public bathhouse. Such application shall contain the following information:

- A. The true name, home address, telephone number, and the age of the applicant, and the ages of any partners of the applicant or, if the applicant is a corporation, the ages of its officers and directors.
- B. The business name, business address, and telephone number of the establishment.
- C. Whether the applicant is a sole proprietorship, partnership, or corporation. If a partnership, the application shall set forth

the names, addresses, and telephone numbers of all persons, whether general or limited partners sharing in the profits of the business and the respective ownership share of each. If a corporation, it shall set forth the name, residence, address, and telephone number of each of its officers and directors. It shall set forth all persons having an interest in the real or personal property at the premises.

- D. Residence addresses of the applicant, and if a corporation, its officers and directors, or if a partnership, its partners, for the last five years.
- E. The principal business of the applicant and his partners, if any; and, if the applicant is a corporation, the principal business enterprises of such corporation.
- F. Two "two-inch by two-inch" black and white photographs of the applicant, or if a partnership or corporation, of the party signing the application, taken within six (6) months of the date of the application, showing only the full face of such applicant. Such photographs shall be provided at the applicant's expense. The license, when issued, shall have affixed to it one of such photographs, and the applicant's fingerprint(s). Such license shall be posted and displayed at all times in a conspicuous place in the establishment where the license is enjoyed and it shall not be tampered with in any manner.
- G. The applicant, or if the applicant is a partnership or corporation, the party signing the application, shall also submit to fingerprinting by the Lynnwood Police Department and such fingerprints shall be retained in the application file, a copy of which shall be forwarded to the Federal Bureau of Investigation Identification Bureau.
- H. All assumed names or aliases which have been or are being used by any person whose name appears on the application.
- I. Proof of liability insurance coverage in the minimum amount required by this Chapter. Failure to provide such proof shall constitute

an incomplete application and shall not be processed.

Section 7. Duties of Public Official. A new Section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.060 DUTIES OF PUBLIC OFFICIALS

Upon the filing of an application for or renewal of a license to conduct a public bathhouse, the City Clerk shall forward copies to the Police Department, the Planning Director, the Building Official, the Fire Chief, the Public Works Director; and

- A. Within sixty (60) days after receipt of a copy of the application, the Police Department shall investigate the statements set forth in the application and report to the Clerk whether or not the information received by the Police Department confirms the information in the application.
- B. Within sixty (60) days after receipt of a copy of the application, the Planning Director shall inspect the proposed establishment and report to the City Clerk whether the location of the establishment is in conformity with the regulations of the Zoning Code.
- C. Within sixty (60) days after receipt of a copy of the application, the Fire Chief will examine the establishment and report to the City Clerk whether it complies with the regulations of Title 9 of the Lynnwood Municipal Code.
- D. Within sixty (60) days after receipt of a copy of the application, the Public Works Director and Building Official shall inspect the establishment and report to the City Clerk whether it complies with all applicable provisions of Titles 13, 15, and 16 LMC and that all water and sewer charges for the premises have been paid.

Section 8. Attending Patron. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.070 ATTENDING A PATRON UNDERGOING A BATH AS TREATMENT - PROHIBITIONS

It is unlawful for any person other than an authorized health care practitioner or a person licensed by the City of Lynnwood as a massage practitioner to administer to or perform services for a patron of a public bathhouse while such patron is taking a bath. It is unlawful for the owner, agent, manager, or person in charge of a public bathhouse to permit any other persons to so attend a patron while a patron is taking a bath.

Section 9.        License. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read follows:

5.51.080 CLERK TO ISSUE LICENSE

If, from the information supplied to the City Clerk, it appears that the application and the premises are fit and proper, that the statements contained in the application are true, and that the applicant has complied with all the requirements of Lynnwood Municipal Code, the City Clerk shall issue a public bathhouse license to the applicant, otherwise the application shall be denied pursuant to the provisions of LMC 5.05.030(E).

Section 10.      Liquor and Controlled Substances Prohibited. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.090 LIQUOR, CONTROLLED SUBSTANCES--PROHIBITED--EXCEPTIONS

- A. Liquor, as that term is defined by the Washington State Alcoholic Beverage Control Act, shall not be distributed or consumed on any premises under regulation by this chapter, unless the premises are licensed to serve the same by the Washington State Liquor Control Board.
- B. Controlled substances, as defined by the Washington State Uniform Controlled Substances Act, shall not be distributed or consumed on any premises under regulation by this chapter.

Section 11.      Closing Hours. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.100 HOURS

All public bathhouses shall be closed, and all services performed therein discontinued, between the hours of twelve midnight and eight a.m.

Section 12.      Conduct Restricted to Licensed Business. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.110 CONDUCT RESTRICTED TO LICENSED BUSINESS

It is unlawful for the owner, proprietor, worker, manager, agent, or person in charge of any premises licensed hereunder to conduct, within the premises, any other business than the one licensed hereunder. For the purposes of this section, any business activity which is conducted off the premises but uses the licensed premises as a point of meeting or for telephone contact to make arrangements shall be deemed to be conducted within the premises.

Section 13.     Required Records. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.120 REQUIRED RECORDS.

A list of fees must be posted in a prominent place at the licensed establishment. All business transactions with customers must be conducted in accordance with the posted list of fees. Daily records must be kept of the number of customers, the time that customers were on the licensed premises, and the amount of money paid by the customers, including any gratuities. Such records shall be open to inspection on the licensee's premises by officers of the City of Lynnwood during business hours, for the purpose of ascertaining compliance with the provisions of this section.

Section 14.     Prohibited Activities. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.130 PROHIBITED ACTIVITIES.

It is unlawful for any owner, proprietor, manager, worker, or agent of any public bathhouse to participate in, or knowingly permit or promote, acts of sodomy, fornication, prostitution, cunnilingus, or fellatio upon the premises, or to intentionally touch or manipulate the genitals of a customer in any manner.

Section 15.     Dress Regulations. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.140 DRESS REGULATIONS

Each public bathhouse worker, owner, proprietor, manager, agent, or person in charge of the establishment shall at all times be and remain fully clothed in a manner sufficient to prevent the exposure of any portion of the female breasts below the top of the areola or any portion of the male or female pubic region, anus, buttocks, vulva, or genitals of such person. Failure to be so clothed constitutes a misdemeanor.

Section 16.     Workers. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.150 WORKERS

It is unlawful for any owner, proprietor, manager, agent, or person in charge of any facility regulated by this Chapter to have as workers in such establishment any persons under the age of eighteen (18) years.

Section 17. Unlawful to Permit Violations. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.160 UNLAWFUL TO PERMIT VIOLATIONS

It is unlawful for the owner, proprietor, agent, manager or person in charge to knowingly permit or allow any person to violate any sentence, section or clause of this chapter while said person is upon the premises licensed hereunder.

Section 18. Unlawful To Admit Certain Persons. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.170 UNLAWFUL TO ADMIT CERTAIN PERSONS

It is unlawful for the owner, proprietor, manager or person in charge of any facility regulated by this chapter, or any worker or agent of such establishment, to admit anyone under the age of eighteen years and permit them to remain in or about such premises, unless such person under the age of eighteen years is accompanied by his or her parent or legal guardian, or to knowingly harbor, admit, receive or permit to be or remain in or about such premises any prostitute, lewd or dissolute person, or any drunk or boisterous person, or any person under the influence of any controlled substance.

Section 19. Unlawful Advertising. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.180 UNLAWFUL TO ADVERTISE WITHOUT LICENSE.

It is unlawful to advertise any establishment regulated by this Chapter which is not licensed according to the provisions of this Chapter.

Section 20. Suspension of Revocation of Bathhouse. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.190 SUSPENSION AND/OR REVOCATION OF LICENSE.

A. SUSPENSION AND REVOCATION SCHEDULE

1. The City Clerk shall suspend any public bathhouse license for a period of fifteen (15) days upon the licensee's first violation of this Chapter.
2. The City Clerk shall suspend any public bathhouse license for a period of forty-five (45) days upon the licensee's second violation of this Chapter.

3. The City Clerk shall revoke any public bathhouse license upon the licensee's third violation of this Chapter within three (3) years. The period of any such revocation shall be one (1) year.
4. The City Clerk shall suspend a public bathhouse license upon receipt of notice that the licensee's required insurance has been canceled until satisfactory proof of insurance is presented to the City Clerk.
5. Notwithstanding the provisions of LMC 5.51.080, the City Clerk shall deny the renewal of any public bathhouse license or revoke any such license if a licensee has:
  - a. Made any false or misleading statements on the application for license or misrepresentations to the City in order to induce or prevent action by the City;
  - b. In connection with the licensee's operation of a bathhouse:
    1. Engaged in an act of prostitution, or has promoted, or permitted prostitution on the licensee's premises;
    2. Used, or distributed controlled substances on the premises of a public bathhouse;
  - c. Failed or refused to qualify for or obtain any license required by the City of Lynnwood or the State of Washington in connection with the licensee's operation of a public bathhouse.

B. NOTICE PROCEDURES FOR SUSPENSION OR REVOCATION

1. Whenever the City Clerk has determined that a public bathhouse license shall be suspended or revoked, the City Clerk shall issue a "Notice of Suspension" or "Notice of Revocation" to the licensee, which shall include the following:
  - a. Name of person(s) involved;
  - b. Date(s) and description(s) of violation(s) of this Chapter;
  - c. Description of action taken by the City Clerk;
  - d. Rights of Appeal as set forth in LMC 5.51.200.

2. Service of Notice of suspension or revocation shall be either by personal service or by mailing same by certified mail, postage pre-paid, return receipt requested, to the licensee at his/her last known address. Proof of personal service shall be made by the person affecting the service at the time of service by a written declaration under penalty of perjury declaring time, date, and the manner of service. If any Notice served by certified mail is refused by the licensee, service shall be deemed complete on the third day following the date of mailing.

Section 21. Hearings On License Suspension or Revocation. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.200 SUSPENSION OR REVOCATION OF LICENSE: HEARING.

Any licensee whose license has been revoked or suspended or whose application for license or renewal thereof has been denied may, within ten (10) days following service of a Notice of Suspension or Revocation, or within ten (10) days of the date of denial of an application for a license or renewal thereof, file a written request for a hearing before the Lynnwood Mayor or his designee, who shall hold a hearing within forty-five days of receiving said request. Upon timely filing of said request, the revocation or suspension shall be stayed. At the hearing, the licensee or applicant shall show cause why the license should not be suspended, revoked or denied. If the Mayor or his designee shall find that the license should be suspended, revoked or denied considering the report of the Clerk and such material as is submitted to him, then said license shall be suspended, revoked, or denied. An appeal from such decision may be made to the Superior Court within fourteen (14) days of the date of decision, by writ of review or certiorari.

Section 22. License Term. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.210 TERM OF LICENSE.

Licenses issued pursuant to this Chapter shall be valid through December 31 of the year of issuance and shall expire on that date. The license may be renewed by following the same procedures specified for filing the original application. Renewal applications may be filed after October 15th of any year. Licenses issued pursuant to this Chapter shall not be assigned or transferred from holder or place to another. If such license is so assigned or transferred, the license shall expire automatically on the date of transfer.

Section 23. Violation and Penalty. A new section is added to Chapter 5.51 of the Lynnwood Municipal Code to read as follows:

5.51.220 VIOLATION AND PENALTY

Any violation of the provisions of this Chapter is unlawful. Any person convicted of a violation of this Chapter is guilty of a misdemeanor, and shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than ninety (90) days in the City jail.

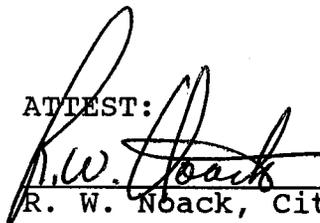
Section 24. Severability. If any section, subsection, sentence, clause, paragraph, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, paragraph, clause, phrase or word of this ordinance.

Section 25. Effective Date. This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

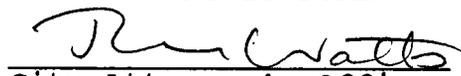
PASSED THIS 22nd day of July, 1991, and signed in authentication of its passage this 23rd day of July, 1991.

  
M. J. HRDLICKA, Mayor

ATTEST:

  
R. W. Noack, City Clerk

APPROVED AS TO FORM

  
City Attorney's Office