

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCILMAN OF THE CITY OF GONZALES, STATE OF LOUISIANA TAKEN ON MONDAY, JULY 25, 2022, 5:30 P.M. AT CITY HALL 120 S. IRMA BLVD, GONZALES, LA 70737.

MEMBERS PRESENT:

Barney Arceneaux, Mayor
Councilman Kirk Boudreaux
Councilman Harold Stewart

Councilman Tyler Turner
Councilman John A. Berthelot
Councilman Tim Riley

MEMBERS ABSENT: NONE

ALSO PRESENT:

Scot Byrd, City Clerk
Matt Percy, City Attorney
Brandon Boylan, Finance Director

Sherman Jackson, Chief of Police
Terri Delatorre, Administrative Secretary

Motion by Councilman Tyler Turner, seconded by Councilman John A. Berthelot to approve the City Council Meeting Minutes taken July 11, 2022.

YEAS: Councilman Kirk Boudreaux, Councilman Harold Stewart, Councilman Tyler Turner, Councilman John A. Berthelot, Councilman Tim Riley

NAYS: NONE

ABSENT: NONE

Final Vote on Ordinance No. 4188:

**CITY OF GONZALES 2022-2023 BUDGET AMENDMENT 01
AN ORDINANCE AMENDING THE CAPITAL OUTLAY BUDGET,
GENERAL FUND BUDGET, AND UTILITY FUND BUDGET**

These changes to the budget are necessary due to uncertainties existing at the time the original budget was created due to supply chain and inflation issues.

That the Fiscal Year 2022- 2023 Budget is hereby amended as follows:

CITY OF GONZALES							
2022-2023 Budget Amendment 01							
Fund	Department	Account Name	G/L Account No.	2022-2023 Original Budget	Amendment Amount	2022-2023 AMENDED BUDGET	Explanation
Revenues:							
Capital Outlay	General Fund	Transfer from General Fund	04-4-00-10-990	3,000,000.00	500,000.00	3,500,000.00	DOTD State Project H.010909
Total Revenue Additions					500,000.00		
Expenses:							
Capital Outlay	General Government	Recreation Capital Outlay	04-5-18-20-010	4,601,000.00	500,000.00	5,101,000.00	Revised construction costs from Engineer
Capital Outlay	General Government	Streets & Drainage	04-5-17-20-014	182,322.00	20,000.00	202,322.00	Trucks Ordered October 2021
Capital Outlay	Utilities	Water Department	04-5-27-20-033	2,627,193.00	10,000.00	2,637,193.00	Trucks Ordered October 2021
Net Expense Additions					530,000.00		

YEAS: Councilman Kirk Boudreaux, Councilman Harold Stewart, Councilman Tyler Turner, Councilman John A. Berthelot, Councilman Tim Riley

Final Vote on Ordinance No. 4190:

**AN ORDINANCE AMENDING THE CODE OF ORDINANCE TO AMEND CHAPTER 17 – BUSINESSES,
ARTICLE II. MESSAGE ESTABLISHMENTS.**

ARTICLE I. IN GENERAL

Sec. 17-1. In General.

The following ordinances included in this chapter are for the general regulation of certain types of businesses operating within the municipal limits of the City of Gonzales.

Sec. 17-2. Definitions.

The words, terms, and phrases, when used in this article, shall have the following meaning:

Business includes, but is not limited to, everything about which a person can be employed, and means that which occupies the time, attention, and labor of men and women for the purpose of producing a livelihood or profit, and connotes the efforts of men and women varied and diverse methods of dealing with each other, to improve their individual economic conditions.

ARTICLE II. MESSAGE ESTABLISHMENTS

Sec. 17-26. Definitions.

The words, terms, and phrases, when used in this article, shall have the following meaning:

Business includes, but is not limited to, everything about which a person can be employed, and means that which occupies the time, attention, and labor of men and women for the purpose of producing a livelihood or profit, and connotes the efforts of men and women varied and diverse methods of dealing with each other, to improve their individual economic conditions, and for the purposes of this chapter shall include, but are not limited to, the advertising solicitation, and/or performance of massages. The term "business" includes, but is not limited to, a massage practitioner who is the sole owner, operator, and employee of a massage business operating as a sole proprietorship, as well as a massage establishment that employs massage practitioners and therapists.

Board shall be defined as the Louisiana Board of Massage Therapy or any other board or entity established by the state to govern the practice of massage therapy.

Business license is the license issued by the business license office of the City of Gonzales, also known as an occupational license.

Business license office is the business license office of the City of Gonzales.

Client shall be defined a customer or patron who pays for or receives massage services or any other service offered by the massage establishment.

Compensation includes, but is not limited to, the payment, loan, advance, donation, contribution, deposit, exchange, or gift of money or anything of value.

Employee means any person employed by a massage business who may render any service to the business, and who receives any form of compensation from the business or its owner or other employee, including independent contractors.

Licensed massage practitioner shall be defined as a person licensed to practice massage by the Louisiana Board of Massage Therapy.

Lobby means the area of the building in which registration of clients occurs, including, but not limited to, the area immediately inside the front door of the massage business dedicated to the reception and waiting of patrons of the massage business and visitors.

Massage and massage therapy means any method of treating the external parts of the body for remedial, health or hygienic purposes for any form of compensation by means of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, or stimulating the external parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances, with or without manipulation, with or without the aid of any

deemed a massage business under this chapter. The term massage business includes but is not limited to a licensed massage practitioner who is the sole owner, operator, and employee or independent contractor of a massage business operating as a sole proprietorship.

Outcall means a massage scheduled and performed by a licensed massage therapist at any location other than the massage establishment.

Outer garments means garments worn over other garments, and does not include underwear, bras, lingerie or swimsuits.

Owner, proprietor, operator, or massage business owner, used interchangeably, means any of the following persons:

- (1) Any person who is a general partner of a general or limited partnership that owns a massage business;
- (2) Any person who has a five percent or greater ownership interest in a corporation that owns a massage business;
- (3) Any person who is a member of a limited liability company that owns a massage business;
- (4) Any person who has a five percent or greater ownership interest in any other type of business association that owns a massage business.

Person means any individual, firm, association, partnership, corporation, joint venture, limited liability company, or combination of individuals, or any juridical entity.

Practitioner, massage practitioner or licensed massage therapist, used interchangeably, means any person who administers massage to another person, for any form of consideration (whether for the massage, as part of other services, or a product, or otherwise.)

Sexually oriented business includes, but is not limited to, an adult bookstore, adult motion picture theater, adult mini-motion picture establishment, adult cabaret, escort agency, sexual encounter center, adult massage parlor or rap parlor; further, "adult entertainment establishment" means any premises to which the public patrons or members are invited or admitted and that are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. "Adult entertainment establishment" further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, model studio, escort service, escort or any other term of like import.

Solicit means to request, ask, demand or otherwise arrange for the provision of services.

Sec. 17-27. Occupational license required.

- (a) It shall be unlawful for any massage to transact any phase of business in the city without first applying to the business license department for an occupational license. Every person, whether natural or juridical, who desires to lease or buy private property to conduct any of the businesses or callings hereinafter set forth, shall first apply for and be granted an occupational license on the forms provided by the city after providing all required documentation.
- (b) Occupational license taxes and fees shall be charged in accordance with R.S. 47:341 et seq.
- (c) No business license shall be issued until all requisite approvals and permits by the state board of massage therapy, department of health and hospitals, state fire marshal, and all other state-required approvals and permits are finalized and received by the business license department.
- (d) All licensees shall comply with the applicable laws and regulations of the state and the City Code.
- (e) Licenses shall be issued on an annual basis and shall expire December 31 of every year.
- (f) Business licenses and all requisite approvals shall be conspicuously displayed and affixed to the wall of the lobby of the massage establishment in a manner clearly visible to patrons within the lobby at all times during operation of the business.
- (g) Massage establishment proprietors shall provide the business license department with the dates and hours of operation for the business. Massage establishments proprietors must notify the business license office of any

to comply with the requirements of this article and local, state or federal law, may result in the revocation of the business's occupational license.

- (j) Name or location changes to any license shall be submitted to the business license office within 30 days of the change along with any appropriate fees.
- (k) A massage establishment shall apply to the city's business license department to amend its registration certificate within 30 days after any change in the registration information, including, but not limited to, the hiring and termination of certified massage practitioners, a change in the business's address, or changes in the owner's addresses and/or telephone numbers.
- (l) Nothing herein relieves an individual or business from obtaining any other licenses, conditional use permits, or other permit if otherwise required by law.
- (m) All licenses issued by the city are nontransferable and shall be for the sole use and benefit the licensee or location issued.
- (n) All occupational licenses are the property of the city and shall be surrendered upon demand of the city.
- (o) The requirements set forth in this section shall not apply to persons exempt by R.S. 37:3556.

Sec. 17-28. Rules and regulations for massage establishment proprietors and massage therapists.

In addition to all other applicable state and local laws and ordinances pertaining to licenses and franchises, all massage establishments operating pursuant to this division shall also be subject to the following provisions:

- (1) No person shall engage in the practice of massage therapy without a current license issued pursuant to R.S. 37:3556 unless such a person is exempt under the laws of the state.
- (2) Each person engaging in the practice of massage therapy shall be the holder of a licensed massage therapist identification card (LMT-ID card), which shall identify the therapist as being properly licensed and shall authorize the therapist to provide off-site massage services.
- (3) A massage establishment shall employ or contract only licensed massage therapists to perform massage therapy.
- (4) Each licensed massage therapist who works at a massage establishment shall display his LMT-ID card in plain view in an appropriate public manner. A licensed massage therapist who is working outside of a massage establishment shall have in his possession his LMT-ID card and shall present it for review upon request of a client or board representative.
- (5) Each individual performing massage therapy and the business proprietor must submit to a background check. A business license will not be granted if any individual performing massage therapy has, within the five years preceding the date of the application, been convicted of a nonviolent felony. A business license will not be granted if any individual, at any time, performing massage therapy has been convicted of or pled nolo contendere to a violent felony or criminal offense involving sexual misconduct. The background check must include the individual's business, occupation, and employment history, the inclusive dates of that employment history, the name and address of any massage business or similar business owned and operated by the individual, whether inside or outside the limits of the city.
- (6) All individuals performing massage therapy must present a valid Louisiana drivers' license and/or identification issued by a state or federal government agency, or other photographic identification bearing a bona fide seal by a foreign government, to be photocopied and attached to their application.
- (7) Each individual performing massage therapy and the business proprietor must present a recent photograph to be attached to their massage therapy license and kept on file in the business licensing office.
- (8) A massage practitioner shall operate only under the name specified in his or her license issued by the board of massage therapy. A massage business shall operate only under the name specified in its occupational license.
- (9) All massage business operators and their employees, including massage practitioners, shall wear clean, non-transparent outer garments. These garments shall not expose their genitals, pubic areas, buttocks, or chest, and shall not be worn in such manner as to expose the genitals, pubic areas, buttocks, or chest.
- (10) No massage shall be given unless the client's genitals are, at all times, fully covered. A massage

Sec. 17-29. Massage establishments.

- (a) All massage establishments must obtain and display occupational licenses and the licenses of each massage therapist employed thereby in the lobby of the massage establishment in a manner clearly visible to patrons within the lobby at all times during operation of the business.
- (b) Quiet and good order shall be maintained upon the premises and shall not permit disorderly or immoral conduct or loitering thereon, nor shall he cause or permit any noise or nuisance on the parking area of the establishment whereby the quiet and good order of the neighborhood are disturbed.
- (c) A list of the services available and the cost of such services shall be posted in the reception area of the massage establishment, and shall be described in readily understandable language. Outcall service providers shall provide such a list to clients in advance of performing any service. No owner, manager, operator or responsible managing employee shall permit, and no massage practitioner shall offer or perform, any service other than those posted or listed as required herein, nor shall any operator or massage practitioner request or charge a fee for any service other than those listed therein.
- (d) All records of the massage business must be kept in accordance with state law, including, but not limited to, health data, pursuant to Title 46, Part XLIV, Ch. 41.
- (e) Massage businesses shall at all times be equipped with an adequate supply of clean sanitary towels, coverings and linens. Clean towels, coverings, and linens shall be stored in a sanitary location. Towels and linens shall not be used on more than one client, unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one client. Soiled linens and paper towels shall be deposited in separate, approved receptacles.
- (f) Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bath rooms, tanning booths, whirlpool baths and pools shall be thoroughly cleaned and disinfected as needed, and at least once each day the premises are open. Bathtubs shall be thoroughly cleaned after each use with a disinfectant. All walls, ceilings, floors, and other physical facilities for the business must be in good repair, and maintained in a clean and sanitary condition.
- (g) Instruments utilized in performing massage shall not be used on more than one client unless they have been sterilized, using approved sterilization methods.
- (h) No person shall enter, be, or remain in any part of a massage business while in possession of an open container of alcohol, or consuming or using any alcoholic beverage or drugs except pursuant to a prescription for such drugs, except as allowed by the Louisiana Office of Alcohol and Tobacco Control and the city. The owner, operator, responsible managing employee, or manager shall not permit any such person to enter or remain upon such premises except as permitted by the office of alcohol and tobacco control and the city.
- (i) No massage business shall place, publish or distribute, or cause to be placed, published or distributed, whether by manual, physical, or electronic means, any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective clients that any service is available other than those services listed as an available service pursuant to the foregoing, nor shall any massage business employ language in the text of such advertising that would reasonably suggest to a prospective client that any service is available other than those services as described in compliance with the provisions of this chapter.
- (j) All signs shall be in conformance with current city ordinances.
- (k) Minimum lighting, consisting of at least one artificial light of not less than 40 watts or the equivalent, shall be provided, and shall be operating in each room or enclosure where massage services are being performed on clients, and in all areas where clients are present.
- (l) Ventilation shall be provided in accordance with applicable building codes and regulations.
- (m) Hot and cold running water shall be provided at all times.
- (n) Adequate dressing, locker and toilet facilities shall be provided for clients.
- (o) A minimum of one wash basin for employees shall be provided at all times. The basin shall be located within or as close as practicable to the area devoted to performing of massage services. Sanitary towels shall also be provided at each basin.
- (p) All massage businesses shall comply with all state and federal laws and regulations for handicapped clients.
- (q) No massage business shall allow any person to reside within the massage business or in attached structures owned, leased or controlled by the massage business, unless an occupancy certificate is issued by the City Building Official in Main Street Zoning.

Sec. 17-30. Inspection by officials.

The investigating and enforcing officials of the city, including, but not limited to, the police, building official, issuer of occupational licenses, or their designees, shall have the right to enter the premises at any time during regular business hours for the purpose of making reasonable inspections and to observe and enforce compliance with

building, fire, electrical, plumbing, or health regulations, and to enforce compliance with the applicable regulations, laws, and statutes, and with the provisions of this chapter.

Sec. 17-31. Grounds for revocation of occupational license.

- (a) The city may suspend, revoke, or refuse to issue or renew an occupational license after notice and opportunity for hearing, upon proof of any of the following:
 - (1) Obtaining a license by means of fraud; misrepresentation, or concealment of material facts, including making false statements on an application or other document required by the city;
 - (2) Selling, bartering, or offering to sell or barter a license;
 - (3) Engaging in unprofessional conduct that has endangered or that is likely to endanger the health, welfare, or safety of the public;
 - (4) The conviction, nolo contendere plea, or receipt of deferred adjudication of any person employed by the massage establishment of any crime arising out of or connected with the practice of massage therapy, unless such a conviction was reversed on appeal;
 - (5) The conviction, nolo contendere plea, or receipt of deferred adjudication of any person employed by the massage establishment at the time of commission of the crime to a violent felony or criminal offense involving sexual misconduct or prostitution;
 - (6) Violating or aiding and abetting in the violation of any provisions of this chapter or the rules and regulations promulgated hereunder;
 - (7) Failing to comply with license or renewal requirements from the city, the state, or the state board of massage therapy.
 - (8) The determination by the business license office or board of massage therapy that the establishment is a sexually oriented business or that a crime or offense involving prostitution or other sexual offenses and resulting in a conviction, to which a plea of nolo contendere was entered or deferred adjudication received, has occurred on the premises of the establishment since the date of the most recent license renewal.
- (b) The city shall impose a fine or penalty of \$500 per day for each violation on massage establishments and massage therapists who continue to operate without a proper occupational license.
- (c) A suspension or revocation issued pursuant to this chapter will be effective ten days from the date appearing in the order, unless a timely appeal is filed with the city council.
- (d) Appeals must be in writing and hand-delivered to the city clerk. An appeal must be received by the city clerk during business hours, inclusive of weekends and holidays, on or before the effective date of suspension or revocation provided in the notice of suspension or revocation.
- (e) The filing of a timely appeal will stay a suspension or revocation pending a decision on the appeal by the city council.
- (f) A hearing shall be scheduled before the city council within 30 days of the appeal. Either the appellant or the business license office may request, in writing directed to the city council, a continuance of the hearing. Such requests must be supported by good cause. The decision whether to grant a continuance is at the discretion of the city council, which shall consider whether granting the continuance poses a threat to public health and safety in light of the severity of the violations alleged.
- (g) The decision of the city council shall be final, with no further administrative right of appeal or reconsideration. The city council may sustain a suspension or revocation, overrule a suspension or revocation, reduce the revocation to a suspension, and/or reduce the length of a suspension. Further, the city council may stay the effective date of any suspension for a reasonable time following a hearing held before the City Council.
- (h) No re-application for an occupational license shall be accepted within one year after a certificate is revoked.
- (i) The following rules shall apply to any hearing required by this section. All parties involved shall have the right to offer testimonial, documentary, and tangible evidence bearing on the issues. Unless otherwise specifically prohibited by law, the burden of proof is on the registrant in any hearing or other matter under this chapter.

Sec. 17-32. Public nuisance.

Sec. 17-33. Exemptions.

The provisions of this chapter shall not apply to the following classes of individuals or businesses while engaged in the performance of their duties.

- (1) Physicians, surgeons, chiropractors, osteopaths, nurses or any physical therapists who are duly licensed to practice their respective professions in the state, and persons working directly under the supervision of or at the direction of such licensed persons, working at the same location as the licensed person, and administering massage services subject to review or oversight by the licensed person.
- (2) Barbers and cosmetologists, duly licensed under the laws of the state, while engaging in practices within the scope of their licenses, except that this provision shall apply solely to the massaging of the neck, face and/or scalp, hands or feet of their clients.
- (3) Hospitals, nursing homes, mental health facilities, or any other health facilities duly licensed by the state, and employees of these licensed institutions, while acting within the scope of their employment.
- (4) Accredited high schools, junior colleges, and colleges or universities whose coaches and trainers are trained in therapeutic sports massage, acting within the scope of their employment, performing massages for athletic purposes.
- (5) Trainers of amateur, semi-professional or professional athletes or athletic teams who are trained in therapeutic sports massage, while engaging in their training responsibilities for and with athletes; and trainers working in conjunction with a specific athletic event.
- (6) Individuals administering massages or health treatment involving massage to persons participating in single-occurrence athletic, recreational or festival events, such as health fairs, road races, track meets, triathlons and other similar events; provided, that all of the following conditions are satisfied:
 - a. The massage services are made equally available to all participants in the event;
 - b. The event is open to participation by the general public or a significant segment of the public, such as employees of sponsoring or participating corporations;
 - c. The massage services are provided at the site of the event, either during, immediately preceding or immediately following the event;
 - d. The sponsors of the event have been advised of and have approved the provisions of massage services;
 - e. The persons providing the massage services are not the primary sponsors of the event.

Sec. 17-34. Penalties.

- (a) Violations of the provisions of this chapter shall be considered a misdemeanor on any person, including the owner or operator of a massage establishment, upon conviction, shall be fined \$500 for each separate infraction per day, or imprisoned for not more than 60 days, or both.
- (b) Any person, proprietor, or establishment convicted of a violation of any provision of this chapter shall additionally be ineligible for licensure as a massage therapist or massage establishment for a period of up to five years from the date of conviction.

YEAS: Councilman Kirk Boudreaux, Councilman Harold Stewart, Councilman Tyler Turner, Councilman John A. Berthelot, Councilman Tim Riley

NAYS: NONE

ABSENT: NONE

Motion by Councilman John A. Berthelot, seconded by Councilman Tyler Turner to condemn the structure owned by Dennis Davis, located at 908 S. George, due to its dangerous and dilapidated condition, and to also grant the owner sixty (60) days in which to do so.

YEAS: Councilman Kirk Boudreaux, Councilman Harold Stewart, Councilman Tyler Turner, Councilman John A. Berthelot, Councilman Tim Riley

NAYS: NONE

ABSENT: NONE

YEAS: Councilman Kirk Boudreaux, Councilman Harold Stewart, Councilman Tyler Turner, Councilman John A. Berthelot, Councilman Tim Riley

NAYS: NONE

ABSENT: NONE

Motion by Councilman Kirk Boudreaux, seconded by Councilman Tim Riley to adopt Resolution No. 2946: A Resolution to Adopt the Louisiana Compliance Questionnaire for Fiscal Year 2022.

YEAS: Councilman Kirk Boudreaux, Councilman Harold Stewart, Councilman Tyler Turner, Councilman John A. Berthelot, Councilman Tim Riley

NAYS: NONE

ABSENT: NONE

Motion by Councilman Tyler Turner, seconded by Councilman John A. Berthelot to approve and authorize Mayor to sign an Act of Donation Agreement with Our Lady of the Lake Hospital to construct a new roadway to connect existing S. Darla Avenue to a new proposed roadway connecting St. Francis Parkway within Heritage Crossing Development.

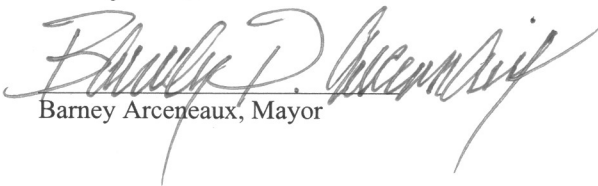
YEAS: Councilman Kirk Boudreaux, Councilman Harold Stewart, Councilman Tyler Turner, Councilman John A. Berthelot, Councilman Tim Riley

NAYS: NONE

ABSENT: NONE

The City Clerk stated the City Council Members have been provided with a copy of the revenue and expense compared to budget report in the City Council Member's packets. The city is within budget. No discussion was required or requested by the City Council Members.

There being no further business to come before the City Council and upon a motion duly made and seconded, the Meeting was adjourned.


Barney Arceneaux, Mayor

ATTEST:


Scot Byrd, City Clerk