

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

RESOLUTION NO. RES-18-0085

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AUTHORIZING THE DIRECTOR OF DEVELOPMENT SERVICES TO SUBMIT AMENDMENTS TO THE LONG BEACH ZONING REGULATIONS TO THE CALIFORNIA COASTAL COMMISSION FOR APPROVAL

WHEREAS, on July 10, 2018, the City Council of the City of Long Beach amended certain provisions of the Long Beach Zoning Regulations, Title 21 of the Long Beach Municipal Code, relating to massage establishments; and

WHEREAS, it is the desire of the City Council to submit the above referenced zoning regulation amendments to the California Coastal Commission for its review; and

WHEREAS, the Planning Commission and City Council gave full consideration to all facts and the proposals respecting the amendments to the zoning regulations at a properly noticed and advertised public hearing; and

WHEREAS, the City Council approved the proposed amendments to the zoning regulations by adopting amendments to Title 21. The proposed zoning regulation amendments are to be carried out in a manner fully consistent with the Coastal Act and become effective in the Coastal Zone immediately upon Coastal Commission certification; and

WHEREAS, the City Council hereby finds that the proposed amendments will not adversely affect the character, livability or appropriate development in the City of Long Beach and that the amendments are consistent with the goals, objectives and provisions of the General Plan.

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1 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
2 follows:

3 Section 1. The amendments to the Long Beach Zoning Regulations of
4 the City of Long Beach adopted on July 10 , 2018, by Ordinance No.
5 ORD-18- 0018 , a copy of which is attached to and incorporated in this
6 resolution is hereby submitted to the California Coastal Commission for its earliest review
7 as to that part of the ordinance that directly affects land use matters in that portion of the
8 California Coastal Zone within the City of Long Beach.

9 Section 2. The Director of Development Services of the City of Long
10 Beach is hereby authorized to and shall submit a certified copy of this resolution, together
11 with appropriate supporting materials, to the California Coastal Commission with a
12 request for its earliest action, as an amendment to the Local Coastal Program that will
13 take effect automatically upon Commission approval pursuant to the Public Resources
14 Code or as an amendment that will require formal City Council adoption after Coastal
15 Commission approval.

16 Section 3. This resolution shall take effect immediately upon its adoption
17 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of June 19, 2018, by the following vote:

Ayes: Councilmembers: Gonzalez, Pearce, Price, Supernaw,
Mungo, Andrews, Uranga, Richardson.

Noes: Councilmembers: None.

Absent: Councilmembers: Austin.



City Clerk

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING AND RESTATING IN ITS ENTIRETY CHAPTER 5.58; AMENDING SECTION 21.15.110, SECTION 21.15.1725, SECTION 21.32.035, TABLE 32-1 OF CHAPTER 21.32, SECTION 21.33.050, SECTION 21.34.030, AND SECTION 21.35.030; ADDING SECTION 21.52.030; AND REPEALING SECTION 21.51.243, ALL REGARDING MASSAGE ESTABLISHMENTS.

WHEREAS, in 2008, the California Legislature passed Senate Bill 731, adding a new Chapter 10.5 to the California Business and Professions Code which provided for the formation of a nonprofit Massage Therapy Organization to oversee a state-sanctioned program of voluntary certification for massage practitioners so that such persons could avoid being required to obtain local massage permits; and

WHEREAS; Senate Bill 731 had a sunset date of January 2, 2015; and

WHEREAS, in September 2014, the California Legislature adopted Assembly Bill 1147, the Massage Therapy Act, amending the laws enacted by Senate Bill 731 and the various amendments thereto; and

WHEREAS, Assembly Bill 1147, which became effective January 2015, restored much of the local and land use authority to local governments which had been usurped by Senate Bill 731 and the various amendments thereto, and allows the City to use its regulatory and land use authority to ensure the best interests of the community, such as ensuring public safety, reducing human trafficking, and enforcing local standards for the operation of massage therapy businesses within Long Beach; and

1 WHEREAS, Assembly Bill 1147 further provides that the California
2 Massage Therapy Council (CAMTC) may regulate the individuals who apply for
3 certification to provide massage therapy services; and

4 WHEREAS, Assembly Bill 1147 prohibits the City from (1) prohibiting a
5 person of one sex from engaging in the massage of a person of the other sex; (2)
6 defining a massage establishment as an adult entertainment business, or otherwise
7 regulating a massage establishment as adult entertainment; (3) requiring a massage
8 establishment to have windows or walls that do not extend from the floor to ceiling or
9 have other internal physical structures (such as windows) that interfere with a client's
10 privacy; (4) imposing client draping requirements or otherwise requiring clients to wear
11 special clothing; (5) prohibiting a massage establishment from locking its external doors
12 if the business is owned by one individual with one or no employees; (6) requiring a
13 massage establishment to post any notice in an area that may be viewed by clients that
14 contain explicit sexual language; (7) requiring a person certified by the CAMTC to take
15 any test, medical examination or background check; (8) requiring a person certified by
16 the CAMTC to get a license, permit or other authorization to provide massage unless
17 that person is a business owner; (9) imposing a dress code stricter than that imposed by
18 Assembly Bill 1147; or (10) prohibiting massage techniques permitted by the CAMTC;
19 and

20 WHEREAS, Assembly Bill 2194, which went into effect on January 1,
21 2017, revised the Massage Therapy Act, and extended the Act for an additional four
22 years, clarified that local governments may impose and enforce reasonable and
23 necessary fees and regulations on massage businesses and massage establishments,
24 in keeping with the requirements of existing law and being mindful of the need to protect
25 legitimate business owners and massage professionals, particularly sole providers; and

26 WHEREAS, Assembly Bill 2194 further mandated that local governments
27 cannot require massage businesses or establishments to have a shower or bath, should
28 give strong consideration to establishing a registration program that they have the ability

1 to either suspend or revoke a registration of a massage business for specific violations,
2 and cannot require a CAMTC certificate holder to submit fingerprints for a state or
3 federal background check; and

4 WHEREAS, the City wishes to amend the LBMC to exercise its authority
5 granted by, and to remain in compliance with, Assembly Bills 1147 and 2194;

6 NOW, THEREFORE, the City Council of the City of Long Beach ordains as
7 follows:

8
9 Section 1. Chapter 5.58 of the Long Beach Municipal Code is amended
10 and restated in its entirety to read as follows:

11 Chapter 5.58

12 MESSAGE ESTABLISHMENTS

13
14 5.58.010 Purpose and intent.

15 The purpose of this Chapter is to promote the public health, safety
16 and welfare as follows:

17 A. This Chapter will regulate lawful massage businesses
18 pursuant to Government Code sections 51030, et seq., and 37101, and
19 California Business and Professions Code sections 4600, et seq., 16000,
20 and 16100, and by virtue of Section 7 of Article XI of the Constitution of the
21 State of California.

22 B. There is significant risk of injury to massage clients by
23 improperly trained and/or uneducated massage therapists and this Chapter
24 provides reasonable safeguards against injury and economic loss.

25 C. There is opportunity for acts of prostitution, sex trafficking,
26 and/or other unlawful sexual activity to occur in massage establishments,
27 and this Chapter provides safeguards against these practices.

28 D. The permit requirements and restrictions imposed by this

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Chapter are reasonably necessary to protect the health, safety and welfare of the citizens of the City of Long Beach, as well as to ward against illegal sexual commerce.

5.58.020 Definitions.

A. "Acupuncture" is the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electro acupuncture, cupping, and moxibustion; "Acupressure" is based on a theory similar to acupuncture except that it stimulates acupuncture points by the application of pressure rather than needling.

B. "Adult-oriented merchandise" is any sexually-oriented implements, paraphernalia, or novelty items, such as but not limited to: condoms and sexually-oriented items that are designed or marketed primarily for the stimulation of human genital organs.

C. "Applicant", in the case of a massage establishment permit, means an individual, or if not an individual, the general partner, chief executive officer, chief advisor, or other person(s) responsible for the ownership and operation of the massage establishment, who applies to obtain a permit under this Chapter.

D. "California Massage Therapy Council" or "CAMTC" means the Massage Therapy organization formed pursuant to California Business and Professions Code Sections 4600, et seq.

E. "Certified massage practitioner" or "practitioner" means a person who is currently certified as a massage practitioner by the CAMTC.

F. "City" shall mean the City of Long Beach, California.

G. "Chief of Police" is the Chief of Police of the Long Beach

1 Police Department or his or her designee.

2 H. "Director of Financial Management" is the Director of Financial
3 Management or his or her designee.

4 I. "Employee" means any owner, partner, operator, manager,
5 supervisor or worker, (whether part-time, full-time, temporary, or
6 permanent) whether paid or not, who renders personal services of any
7 nature in the operation of a massage establishment in exchange for any
8 form of compensation from the business.

9 J. "Independent contractor" means a certified massage
10 practitioner who works at a separate massage establishment, but is not a
11 salaried employee and does not share a percentage of massage proceeds
12 with that massage establishment. An independent contractor is also
13 considered an individual massage establishment for purposes of
14 compliance with this Chapter.

15 K. "Massage", "massage therapy", or "bodywork" means the
16 skillful application of touch, including but not limited to, pressure, stroking,
17 kneading, compression on or movement of the external surfaces of the
18 body to produce increased awareness, relaxation, pain relief, injury
19 rehabilitation, or neuromuscular re-education. Examples of massage
20 include but are not limited to Swedish massage, sports massage, shiatsu,
21 polarity therapy, rolfing, hellerwork and reflexology.

22 L. "Massage establishment" means any business that offers
23 massage therapy in exchange for compensation. Any business that offers
24 any combination of massage and bath facilities, including, but not limited to,
25 showers, baths, wet and dry heat rooms, pools and hot tubs shall be
26 deemed a massage establishment under this Chapter. Massage
27 establishment includes a certified massage practitioner who is the sole
28 owner or operator of a massage establishment, or operating as a sole

1 proprietorship.

2 M. "Massage therapist" means any person, including an
3 independent contractor, who provides or administers massage therapy
4 services to another person for any form of consideration or compensation
5 whether for the massage, as part of other services or a product, or
6 otherwise. For purposes of this definition, "massage therapist", "massage
7 technician", "massage practitioner" and "masseur" shall have the same
8 meaning.

9 N. "Managing employee" is any employee of a massage
10 establishment who has been designated by the massage establishment
11 permittee to manage the business.

12 O. "Massage Establishment Permit" means the Massage
13 Establishment Permit to engage in the business of massage therapy where
14 required by this Chapter and as issued by the Director of Financial
15 Management.

16 P. "Permittee" is any person possessing a permit required and
17 issued under this Chapter, or any owner or operator of the permitted
18 massage establishment.

19 Q. "Person" means any individual, co-partnership, firm,
20 association, joint stock company, corporation, joint venture, or combination
21 of individuals of whatever form or character.

22 R. "Sexual or genital part" means the genitals, pubic area, anus,
23 perineum of any person and the breasts of any female.

24 S. "Sole proprietorship" means and includes any legal form of
25 business organization where the business is owned by one individual (or
26 "sole proprietor").

27 5.58.030 Massage Establishment Permit – required.

28 A. No person shall engage in, carry on, or conduct the business

1 of a massage establishment without first having obtained a Business
2 License as prescribed by the provisions of Chapter 3.80, and, where
3 required by this Chapter, a Massage Establishment Permit, a Health Permit,
4 and an Administrative Use Permit as prescribed in Title 21.

5 B. No person shall engage in, conduct, or carry on the function of
6 a massage therapist, whether as an independent contractor, employee or
7 owner of a massage establishment, without being certified by the CAMTC
8 as a certified massage therapist, certified massage practitioner, or
9 conditionally certified massage practitioner pursuant to California Business
10 and Professions Code Sections 4600 et seq. Persons practicing
11 acupressure under the direction of a licensed State of California
12 acupuncturist shall obtain CAMTC certification as required in this Chapter.

13 C. Massage Establishment Permit: A massage establishment,
14 except an independent contractor, must be issued a Massage
15 Establishment Permit. A Massage Establishment Permit issued under this
16 Chapter does not authorize the permittee to commence operations pursuant
17 to the permit until the permittee has complied with all business license
18 requirements, zoning/planning requirements, and all other applicable
19 federal, state, and City of Long Beach laws and regulations. A Massage
20 Establishment Permit does not authorize the permittee to provide massage
21 therapy services, and it is unlawful to do so without valid CAMTC
22 certification.

23 D. Health Permit. A massage establishment, except an
24 independent contractor, must be issued a Health Permit. A Health Permit
25 shall be issued by the Health Officer when investigation has determined that
26 the proposed massage establishment and its facility and method of
27 operation meets the specifications or conforms to the requirements of this
28 Chapter and any applicable laws and regulations. A Health Permit, once

1 issued, is nontransferable and shall only be valid for the person or entity,
2 location, type of services or activities, and, unless suspended or revoked,
3 for the time period indicated. Any Health Permit fees, including recovery and
4 enforcement costs, shall be determined by resolution of the City Council.

5 E. Administrative Use Permit (AUP) for massage as a Primary
6 Use. A massage establishment, other than an independent contractor,
7 where massage is the primary use (over 50%) of the business must apply
8 for and be issued, prior to operation, an Administrative Use Permit (AUP),
9 and such AUP shall be maintained, in accordance with Chapters 21.25 and
10 21.32 of the Long Beach Municipal Code.

11 F. A massage establishment shall not be issued a Business
12 License without a Massage Establishment Permit, Health Permit, or
13 Administrative Use Permit when required by this Chapter.

14 5.58.040 Massage Establishment Permit – exemptions.

15 A. The permit requirements of this Chapter shall not apply to the
16 following persons or entities while engaged in the performance of their
17 duties and operating in compliance with any applicable federal, state and/or
18 local law:

19 1. Physicians, surgeons, chiropractors, osteopaths,
20 nurses, physical therapists, or acupuncturists who are duly licensed to
21 practice their respective professions in the State.

22 2. Barbers, beauticians, cosmetologists, and estheticians
23 who are duly licensed under the laws of the State while engaging in
24 practices within the scope of their licenses.

25 3. Hospitals, nursing homes, sanitariums, or any other
26 health facility duly licensed by the State.

27 4. Accredited high schools, junior colleges, colleges, or
28 universities whose coaches and trainers are acting within the scope of their

1 employment.

2 5. Accredited colleges or universities that offer massage
3 therapy programs whose instructors and students are acting within the
4 scope of their employments or within the scope of their curriculum.

5 6. Trainers of amateur, semiprofessional or professional
6 athletes or athletic teams while engaging in their training responsibilities for
7 and with athletes; and trainers working in conjunction with a specific athletic
8 event such as road races, track meets, triathlons, biathlons, or similar single
9 occurrence athletic or recreational events.

10 7. Hotels with over one hundred (100) rooms.

11 5.58.050 Massage Establishment Permit application process.

12 A. Each applicant for a Massage Establishment Permit shall, for
13 each separate massage establishment or place of business where massage
14 is to occur, complete and file an application on forms provided by the
15 Director of Financial Management. Such application forms shall require, at
16 a minimum, the following information:

17 1. The name, address and telephone number of the
18 applicant and all other persons or owners having a financial interest in the
19 operation of the massage establishment.

20 2. The location of the massage establishment or place of
21 business where massage is to occur.

22 3. A brief description of the nature of the business and
23 services to be provided.

24 4. Proof of Live Scan completion by a representative of
25 the Long Beach Police Department and proof of fingerprint submission to
26 the Department of Justice for processing pursuant to this Chapter for each
27 owner, only if the owner is not CAMTC certified.

28 5. If an applicant, himself or herself, intends to engage in,

1 conduct, or carry on the function of a massage therapist, said applicant
2 must provide written proof of the applicant's current, valid certification by
3 CAMTC, and applicants must provide proof of CAMTC certification for any
4 employee(s) who will perform massage services at the applicant's massage
5 establishment and who are known to the applicant at the time of application.

6 6. Such other information the Director of Financial
7 Management, the Health Officer, or any concerned City department shall
8 deem necessary for the proper processing and review of the application, in
9 accordance with existing law.

10 B. The person whose signature appears on the application shall
11 attest that he or she is a duly authorized representative of the applicant and
12 that the information contained in the application is true and correct.

13 C. The application shall be filed under the penalty of perjury.
14 False statements therein will constitute grounds for denial, suspension or
15 revocation as applicable.

16 D. An incomplete application shall not be accepted for
17 processing.

18 E. If required, each application shall be accompanied by a
19 nonrefundable fee, in an amount established by resolution of the City
20 Council. The application fee shall be used to defray, in part, the costs of the
21 investigation, and is not made in lieu of any other fees or taxes required
22 under this Code. Applicants are required to make separate payment to the
23 Police Department for fingerprinting services as required by this Chapter.

24 F. Upon receipt of a completed Massage Establishment Permit
25 application, the Director of Financial Management shall refer the application
26 to all concerned City departments. Such departments shall file a report
27 providing recommendations regarding the approval or denial of the permit
28 with the Director of Financial Management within sixty (60) calendar days

1 after the completed application is filed, except where circumstances beyond
2 the control of the City justifiably delay such response.

3 5.58.060 Massage Establishment Permit – issuance.

4 A. The Director of Financial Management shall make or cause to
5 be made an investigation of the place of business and the manner in which
6 the massage establishment is to be conducted, and if it is found that all
7 provisions of this Code and all applicable laws have been and will be
8 complied with, the Director of Financial Management shall issue the
9 Massage Establishment Permit; otherwise, the application for a Massage
10 Establishment Permit shall be denied.

11 B. Massage Establishment Permits shall be valid for one (1) year
12 from the date of issuance, and shall be automatically renewed every year
13 upon payment of the required permit fee, provided that the Director of
14 Financial Management determines that the permittee has complied with the
15 provisions of this Chapter and applicable laws during the preceding permit
16 term.

17 C. Every person maintaining, carrying on or conducting any
18 business for which a permit is required by the provisions of this Chapter
19 shall pay a permit fee in an amount established by the City Council by
20 resolution adopted pursuant to Section 5.04.040 of this Code.

21 5.58.070 Massage Establishment Permit – denial.

22 A. If a City department determines that the applicant does not
23 satisfy applicable requirements of this Chapter, the Director of Financial
24 Management shall deny said permit application in accordance with the
25 provisions set forth in Subsection 5.06.020.A of this Code. The applicant
26 shall have the right of appeal as set forth in Section 5.06.030 of this Code.

27 B. The Chief of Police shall recommend denial of a Massage
28 Establishment Permit if, upon completion of a background check for an

1 individual owner(s) who is not CAMTC-certified, it is determined the
2 owner(s) meets any of the following disqualifying grounds:

3 1. The applicant has been successfully prosecuted under
4 the Red Light Abatement Act (California Penal Code section 11225 et seq.)
5 or any similar law in another jurisdiction.

6 2. The applicant has been convicted of any of the
7 following offenses during the ten (10) years preceding the date of the
8 application:

9 a. Conduct which requires registration under
10 California Penal Code section 290, or which is a violation of Penal Code
11 sections 220, 245.3, 245.5, 266(h), 266(i), 266(j), 286, 288, 314, 315, 316,
12 318, 647(a), 647(b), 647(d), the sections in Part 1, Title 9, Chapters 7.5 or
13 7.6 of the Penal Code or equivalent offenses under the laws of another
14 jurisdiction, or any offense involving sexual misconduct with children or
15 adults even if expunged pursuant to Penal Code section 1203.4.

16 b. Conviction of, or entry of a plea of guilty or no
17 contest to, an offense involving the sale of a controlled substance specified
18 in sections 11054, 11055, 11056, 11057, 11058, 11351, 11352, 11358
19 through 11363 or 11378 through 11380 of the California Health and Safety
20 Code, or equivalent offenses under the laws of another jurisdiction, even if
21 expunged pursuant to Penal Code section 1203.4.

22 c. Crimes that are designated in California
23 Government Code section 51032(b).

24 d. Any crime involving dishonesty, fraud, deceit,
25 violence, or moral turpitude.

26 e. Conspiracy or attempt to commit any of the
27 aforementioned designated offenses.

28 f. Convictions to a charge of a violation of

1 California Penal Code sections 415 or 602, or any lesser included or related
2 offense, in satisfaction of, or as a substitute for, any of the previously listed
3 crimes, or any crime committed while engaged in the ownership of a
4 massage establishment or the practice of massage therapy.

5 g. Conviction of Health and Safety Code section
6 11550 or any offense involving the illegal sale, distribution or possession of
7 a controlled substance specified in Health and Safety Code sections 11054,
8 11055, 11056, 11057 or 11058.

9 h. Convictions under the laws of other jurisdictions
10 which proscribe the same or similar conduct as the crimes designated
11 above. Convictions that have been expunged and convictions under the
12 laws of other jurisdictions which proscribe the same or similar conduct as
13 the crimes designated above shall be reported.

14 3. The applicant has been subjected to a permanent
15 injunction against the conducting or maintaining of a nuisance pursuant to
16 California Penal Code sections 11225 et seq. or any similar provisions of
17 law in a jurisdiction outside the state.

18 C. The Chief of Police may postpone decision on a permit
19 application until the City of Long Beach receives the applicant's fingerprint
20 review results from the California Department of Justice.

21 5.58.080 Suspension or revocation of Massage Establishment Permit.

22 A. Noncompliance. Failure to comply with any provision of this
23 Chapter pertaining to a Massage Establishment Permit issuance, or any
24 rule or regulation adopted pursuant hereto, or with any other provision or
25 requirement of law, including, but not limited to, this Code and any grounds
26 that would warrant the denial of initial issuance of a permit hereunder, will
27 constitute grounds for suspension or revocation of the permit. The
28 suspension or revocation of the permit shall be governed by the provisions

1 of Chapter 5.06 of this Code.

2 B. Cease activity. No person shall conduct any business or
3 activity regulated by this Chapter during the pendency of a permit
4 application or at any time after permit denial or revocation, or during the
5 time a permit therefor has been suspended. Any person who engages in
6 any business after a permit has been suspended or revoked and before
7 such permit has been reinstated or a new permit issued, shall be guilty of a
8 misdemeanor.

9 C. Unless otherwise specifically provided by law, the burden is
10 on the applicant or permittee in any hearing under this Chapter to prove that
11 the determination of the City or an authorized representative which he or
12 she is appealing is unreasonable, erroneous, or clearly abusive of
13 discretion.

14 5.58.090 Massage Establishment Permit reapplication.

15 A. Whenever a Massage Establishment Permit application has
16 been denied or a Massage Establishment Permit has been revoked, no
17 other such application or permit shall be considered for a period of one (1)
18 year from either the date notice of the denial or revocation was mailed, or
19 the date of the final decision of the City Council, whichever is later.

20 B. For the purposes of this Section, the massage establishment
21 business license and the Massage Establishment Permit shall be one and
22 the same, and in the event one is suspended, denied or revoked, the other
23 is simultaneously and automatically deemed suspended, denied or revoked.

24 C. This Section applies to any person whose Massage
25 Establishment Permit was revoked or whose Massage Establishment
26 Permit application was denied who later becomes a director or officer of a
27 corporation, profit or nonprofit, or a member of a partnership, or a person
28 owning or possessing fifty percent (50%) or more of the shares of a

1 corporation, who seeks to obtain a new Massage Establishment Permit.

2 This shall also apply to a corporation, profit or nonprofit, whose permit was
3 revoked or application denied, and to any of its directors or officers or to
4 any person who owned fifty percent (50%) or more of its shares, who
5 attempts by way of a new corporation or by the use of their individual
6 names or by becoming a member of a partnership or a director, officer or
7 person owning or possessing fifty percent (50%) or more of the shares in
8 another corporation to obtain a new Massage Establishment Permit.

9 Whenever any Massage Establishment Permit is suspended, the provisions
10 of this Section shall apply to the permittee during the period of suspension.

11 5.58.100 Massage Establishment Permit nontransferable.

12 A. No Massage Establishment Permit issued hereunder shall be
13 sold, transferred, or assigned by the permittee, or by operation of law, to
14 any other person, or from one location to another location for any purpose.
15 Any such sale, transfer, assignment, attempted sale, attempted transfer or
16 attempted assignment shall constitute an immediate revocation of the
17 permit, and the permit shall thereafter be null and void.

18 B. No permittee shall operate under any name or conduct any
19 massage establishment under any designation or location not specified in
20 the permit.

21 C. If the information required in the permit application changes, a
22 new Massage Establishment Permit is required before the business may
23 continue to operate as a massage establishment. For example, if an owner
24 or operator to whom a permit has been issued changes a business location,
25 that owner or operator must apply for a new permit prior to operating a
26 massage establishment at the new location; or, if the massage
27 establishment business is sold or otherwise has a change in ownership, the
28 new owner(s) must apply for a new permit for that location before the

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business may operate as a massage establishment.

D. Any application for an expansion of a building of a massage establishment shall require compliance with this Chapter and all other applicable laws.

5.58.110 Minimum age requirement.

A. No person shall be employed in a massage establishment or perform massage therapy or manage or hold an ownership interest in a massage establishment who is not at least 18 years of age.

B. It is a misdemeanor for the owner, proprietor, managing employee, or any other person in charge of any massage establishment to employ any person under eighteen (18) years of age.

5.58.120 Display of permit and certifications.

The Massage Establishment Permit and a copy of the CAMTC certification of each and every massage therapist employed in the massage establishment shall be displayed in an open and conspicuous place on the premises. The City massage establishment business license and the Massage Establishment Permit shall be one and the same, as one document shall be issued upon business license and permit approval.

5.58.130 Facilities and operating requirements.

A. Every massage establishment and every massage therapist shall comply with local, state, and federal standards for such businesses and practitioners and the following facilities and operations requirements:

1. The massage establishment's premises and facilities shall meet and be maintained in a condition to comply with all applicable code requirements of the City, county, and state, including, but not limited to, those related to the safety of structures, adequacy of the plumbing, lighting, heating, ventilation, waterproofing of rooms in which showers, water or steam baths are used, and the health and cleanliness of the

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facility.

2. Massage establishments and massage therapists shall at all times have an adequate supply of clean sanitary towels, coverings, and linens. Towels, non-disposable coverings, and linens shall not be used on more than one client, unless they have first been laundered and disinfected. Disposable towels and disposable coverings shall not be used on more than one client. Soiled linens and paper towels shall be deposited in separate receptacles.

3. In the massage establishment, wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bathrooms, tanning booths, whirlpool baths, and pools shall be thoroughly cleaned and disinfected with a disinfectant as needed, and at least once each day when the premises are open. Bathtubs shall be thoroughly cleaned with a disinfectant after each use. All walls, ceilings, floors, and other physical facilities for the establishment shall be in good repair, and maintained in a clean and sanitary condition.

4. All equipment used in the massage therapy operation shall be maintained in a clean and sanitary condition. Instruments utilized in performing massage therapy shall not be used on more than one client unless they have been sterilized, using standard sterilization methods.

5. Adequate dressing rooms shall be provided to patrons. Dressing rooms may be occupied by no more than one person at a time. Dressing rooms need not be separate from the room in which the massage therapy is being performed.

6. Separate toilet facilities and washbasins are required for each sex as provided by Sections 8.26.050 and 8.26.060 of this Code. All single-user toilet facilities shall be identified as all-gender toilet facilities by signage that complies with Title 24 of the California Code of Regulations,

1 and designated for use by no more than one occupant at a time or for family
2 or assisted use, per California Health and Safety Code section 118600.
3 Toilet facilities shall be provided in convenient locations within the massage
4 establishment and shall include lavatories or wash basins provided with
5 soap and both hot and cold running water either in the toilet room or
6 vestibule.

7 7. A minimum of one wash basin for employees shall be
8 provided at all times. The basin shall be located within or as close as
9 practicable to the area devoted to performing of massage therapy services.
10 Soap and sanitary towels shall also be provided at each basin.

11 8. Massage therapy shall be provided or given only
12 between the hours of 7:00 a.m. and 10:00 p.m. No massage establishment
13 shall be open and no client shall be in the establishment between 10:00
14 p.m. and 7:00 a.m.

15 9. No alcoholic beverages shall be sold, served,
16 furnished, kept, consumed, or possessed on the premises of any massage
17 establishment, except where authorized by law and, where applicable,
18 approved by the Department of Development Services.

19 10. Controlled substances must not be consumed in a
20 massage establishment unless the person has a prescription for the
21 substance.

22 11. No owner, manager, operator, responsible managing
23 employee, or permittee shall permit, and no massage therapist contractor
24 shall offer or perform, any service other than those permitted under this
25 Chapter.

26 12. No permittee or employee of a massage establishment
27 shall:

28 a. Expose the sexual or genital part of the

1 permittee or employee in the course of a massage therapy.

2 b. Touch or expose the sexual or genital part of
3 any other person in the course of a massage therapy.

4 c. Perform massage therapy on a patron with the
5 intent or purpose of arousing, appealing to, or gratifying the sexual desires
6 of said patron.

7 d. Perform any task or service associated with the
8 massage establishment in attire prohibited by California Business and
9 Professions Code section 4609(10).

10 13. No permittee or employee of a massage establishment
11 shall place, publish or distribute or cause to be placed, published or
12 distributed any advertising matter that depicts any portion of the human
13 body that would reasonably suggest to prospective customers that any
14 service is available that is prohibited under this Chapter nor shall any
15 massage establishment employ language in any advertising text or
16 business name that would reasonably suggest to a prospective client that
17 any service is available that is prohibited under this Chapter.

18 14. The use or possession of adult-oriented merchandise
19 in or on any part of a massage establishment is expressly prohibited.

20 15. Condoms must not be kept or used for any purpose in
21 the massage establishment.

22 16. Recordings.

23 a. No electrical, mechanical or artificial device shall
24 be used by the operator and/or manager, massage therapist or any
25 employee of the massage establishment for audio and/or video recording or
26 for monitoring the performance of a massage therapy, or the conversation
27 or other sounds in the massage rooms without the knowledge and written
28 consent of the patron.

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b. No surveillance cameras, or video recording devices of any type, may be installed into rooms in which massage services will be rendered.

17. Locks prohibited.

a. No massage therapy shall be conducted within any cubicle, room, booth or treatment room on the premises of a massage therapy business which is fitted with a lock.

b. All entrance and exit doors on the premises of a massage establishment shall remain unlocked during business hours unless the massage establishment is a business entity owned by one individual with one or fewer employees or independent contractors.

18. All massage services shall be paid for in the reception area. Massage establishments may utilize a system where tip envelopes are provided in the treatment rooms to be utilized and deposited by the client in the reception area.

19. A massage establishment must not be used for residential or sleeping purposes unless the massage establishment is properly zoned and has all necessary use permits, and the massage establishment is owned by one individual with one or fewer employees or independent contractors.

20. No person other than the client and the client's immediate family or guardian is allowed in the massage room while the client is dressing or undressing.

21. No person other than the client, the massage therapist assigned to the client, and the client's immediate family or guardian are allowed in the massage room if any door into the massage room is closed. Others may be in the massage room so long as all doors to the room are fully open.

1 22. Massage establishment personnel or any massage
2 therapist must not inquire as to whether any client is a peace officer.

3 23. Artificial or natural light must be provided to produce a
4 minimum of ten (10) foot candles of light in all parts of the massage
5 establishment, in accordance with OSHA Regulations, Standard – 29 CFR,
6 Standard Number 1926.56, Title – Illumination, table D-3, and Article 220 of
7 the National Electric Code.

8 5.58.140 Responsibility of employer/permittee.

9 A. It shall be the responsibility of the massage establishment
10 permittee who employs or allows any person acting or purporting to act as a
11 massage therapist, or the employer of any person acting or purporting to
12 act as a massage therapist, to ensure that such person complies with the
13 requirements of this Chapter and all laws, including obtaining and
14 maintaining CAMTC certification.

15 B. The massage establishment permittee shall be held
16 responsible for the conduct of all persons on the premises who engage in
17 providing the service of massage therapy. Any act or omission of any
18 person giving massage therapy, or any service of massage therapy, shall
19 be deemed the act or omission of the holder of the Massage Establishment
20 Permit for the purposes of determining whether the permit may be revoked,
21 suspended, or denied. Proof of knowledge of any violation of this section
22 shall not be required for purposes of suspension, revocation, or denial of a
23 Massage Establishment Permit.

24 5.58.150 Applicability to existing businesses.

25 A. Any business establishment operating as a massage
26 establishment under an existing business license on the effective date of
27 this Chapter shall be brought into full compliance with the provisions of this
28 Chapter not later than one hundred eighty (180) days following the effective

1 date of this Chapter, except where otherwise specified herein.

2 B. All persons currently holding a valid massage technician
3 permit issued by the Chief of Police shall have one (1) year following the
4 enactment of this Chapter in which to become a CAMTC certified massage
5 therapist, certified massage practitioner, or conditionally certified massage
6 practitioner pursuant to California Business and Professions Code Sections
7 4600 et seq.; failure to comply with this requirement shall result in
8 immediate suspension and/or revocation of the existing permit and/or
9 related license.

10 C. Any business that holds itself out as a massage establishment
11 in any way including, without limitation, the advertising and soliciting of
12 massages, will be subject to the provisions of this Chapter, unless
13 expressly exempt by this Chapter.

14 5.58.160 Cease of business.

15 A Massage Establishment Permit issued pursuant to this Chapter
16 shall become null and void upon the cessation of the business operations
17 and/or the relocation of the business to a different property or address.
18 Permittees shall notify the Director of Financial Management in writing if at
19 any time during the duration of a permit issued under this Chapter a
20 permittee ceases to do business as a massage establishment.

21 5.58.170 Inspections.

22 A. The Director of Financial Management, the Health Officer, the
23 Chief of Police, and authorized representatives of concerned City
24 departments are empowered to enter any massage establishment, or other
25 place of business where massage occurs or is suspected of occurring,
26 during any hour in which a massage establishment, or other place of
27 business where massage occurs or is suspected of occurring, is operating,
28 for the purpose of inspection, including the taking of photographs, samples

1 or other items that are plainly visible, to the extent permissible by law, and
2 to enforce any of the provisions of this Chapter, or of any applicable law,
3 rule or regulation governing such places in the City.

4 B. No person shall refuse to permit or allow the Director of
5 Financial Management, the Health Officer, any authorized inspector, or any
6 representatives of concerned City departments, to enter, inspect or
7 examine any portion of any massage establishment or other place of
8 business where massage occurs. No person shall interfere with, hinder, or
9 harass, in any manner, any City representative in the inspection or the
10 examination of such massage establishment or other place of business
11 where massage occurs.

12 5.58.180 Enforcement and penalties.

13 A. It is the duty of the Chief of Police, or other authorized City
14 officials and their designees, to enforce the rules and regulations in
15 accordance with this Chapter.

16 B. Each day a violation exists constitutes a separate and distinct
17 offense. Suspension or revocation of a Massage Establishment Permit shall
18 be governed by the provisions of this Chapter.

19 C. Pursuant to the City's prosecutorial discretion, the City may
20 enforce violations of the provisions of this Chapter as criminal actions, and
21 the City may also enforce violations of this Chapter as civil and/or
22 administrative actions.

23 D. If a person falsely states or advertises or puts out any sign or
24 card or other device, or falsely represents to the public through any print or
25 electronic media, that he or she or any other individual is licensed, certified,
26 or registered by a governmental agency as a massage therapist or
27 massage practitioner, that person shall be subject to a civil penalty not to
28 exceed two thousand five hundred dollars (\$2,500) for each violation, to be

1 assessed and collected in a civil action brought by the City Attorney, District
2 Attorney, or Attorney General.

3 E. Unless otherwise stated in this Chapter, violation of any
4 provision of this Chapter is a misdemeanor and is punishable by a fine of
5 not more than one thousand dollars (\$1,000) or by imprisonment for not
6 more than six (6) months or by both such fine and imprisonment.

7 Revocation of a license or permit or certificate shall not be a defense
8 against prosecution.

9 F. Any massage establishment operated, conducted or
10 maintained contrary to the provisions of this Chapter shall be unlawful and a
11 public nuisance, and the City may, in addition to or in lieu of prosecuting a
12 criminal action hereunder, commence an action(s) or proceeding(s) for the
13 abatement, removal and enjoinder thereof, in a manner provided by law.

14 5.58.190 Severability.

15 If any section, subsection, subdivision, paragraph, sentence, clause
16 or phrase of this Chapter, or its application to any person or circumstance, is
17 for any reason held to be invalid or unenforceable, such invalidity or
18 unenforceability shall not affect the validity of enforceability of the remaining
19 sections, subsections, subdivisions, paragraphs, sentences, clauses or
20 phrases of this Chapter, or its application to any other person or
21 circumstance. The City of Long Beach declares that it would have adopted
22 each section, subsection, subdivision, paragraph, sentence, clause or
23 phrase hereof, irrespective of the fact that any one (1) or more sections,
24 subsections, subdivisions paragraphs, sentences, clauses or phrases
25 hereof be declared invalid or unenforceable.

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1 Section 2. Section 21.15.110 of the Long Beach Municipal Code is
2 amended to read as follows:

3 21.15.110 Adult entertainment business.

4 "Adult entertainment business" refers to any use defined in this
5 Section.

6 A. "Adult bookstore" means an establishment having twenty
7 percent (20%) or more of its stock in trade in books, magazines and other
8 periodicals, videotapes or other similar materials on display or available for
9 sale or viewing on the premises which are distinguished or characterized by
10 their emphasis on matter depicting, describing or relating to specified
11 sexual activities or specified anatomical areas.

12 B. "Adult mini motion picture theater" means an enclosed
13 building with a capacity for less than fifty (50) persons, which is used for
14 presenting, on a regular and substantial basis, material distinguished or
15 characterized by an emphasis on matter depicting or relating to specified
16 sexual activities or specified anatomical areas for observation by patrons in
17 the facility.

18 C. "Adult motion picture arcade" means any place to which the
19 public is permitted or invited and where coin or slug operated or
20 electronically, electrically or mechanically controlled still or motion picture
21 machines, projectors or other image producing devices are maintained to
22 show images on a regular and substantial basis, where the images so
23 displayed are distinguished or characterized by an emphasis on depicting
24 or describing specific sexual activities or specified anatomical areas.

25 D. "Adult motion picture theater" means an enclosed building
26 with a capacity of fifty (50) or more persons, which is used for representing
27 on a regular and substantial basis, material distinguished or characterized
28 by an emphasis on matter depicting, describing or relating to specified

1 sexual activities or specified anatomical areas for observation by patrons in
2 the facility.

3 E. "Cabaret" means a nightclub, theater or other establishment
4 which features live performances by topless and/or bottomless dancers,
5 exotic dancers, strippers, wrestlers, or similar entertainers, and where such
6 performances are distinguished or characterized by an emphasis on
7 specified sexual activities or display specified anatomical areas.

8 F. "Model studio" means any premises on which there is
9 conducted any business where, for any fee, compensation, consideration or
10 gratuity, figure models who display specified anatomical areas are provided
11 to be observed, sketched, drawn, painted, sculptured, photographed or
12 otherwise depicted by persons paying such consideration or gratuity. For
13 the purposes of this Section, "model studio" shall not be deemed to include:

14 1. Any art studio or art gallery maintaining a business
15 license in the City where the activity described in this Subsection is carried
16 on as an activity that is accessory to the principal use, provided that the
17 operator complies with the additional conditions and specifications as set
18 forth in Chapter 21.51 entitled "Accessory Uses"; or

19 2. Live nude art drawing or painting, or classes related
20 thereto, that are conducted at an educational institution such as a private or
21 public school, vocational school, college, or university qualified by the State
22 Board of Education to give general academic instruction.

23 G. "Sexual encounter center" means any business, agency or
24 person who, for any form of consideration or gratuity, provides a place
25 where three (3) or more persons may congregate, assemble or associate
26 for the purpose of engaging in specified sexual activities or exposing
27 specified anatomical areas.

28 H. For the purposes of this Section, "specified anatomical areas"

1 include the human male or female genitals, pubic hair, anus, cleft of the
2 buttocks, or vulva with less than a fully opaque covering and/or covered
3 male genitals in a turgid state. This provision may not be complied with by
4 applying an opaque covering simulating the appearance of the specific
5 anatomical part required to be covered.

6 I. For the purpose of this Section, "specified sexual activities"
7 include:

8 1. Actual or simulated sexual intercourse, anal
9 intercourse, oral or anal copulation, bestiality, pedophilia, necrophilia, direct
10 physical stimulation of unclothed genitals, flagellation or torture in the
11 context of sexual relationship, or the use of excretory functions in the
12 context of a sexual relationship; or

13 2. Clearly depicted human genitals in a state of sexual
14 stimulation, arousal or tumescence; or

15 3. Use of human or animal masturbation, sodomy, oral
16 copulation, coitus, ejaculation; or

17 4. Fondling or touching of nude human genitals, pubic
18 region, buttocks or female breast; or

19 5. Masochism, erotic or sexually oriented torture, beating
20 or the infliction of pain; or

21 6. Erotic or lewd touching, fondling or other contact with
22 an animal by a human being; or

23 7. Human erection, urination, menstruation, vaginal or
24 anal irrigation.

25 J. For the purpose of this Section, "regular and substantial
26 basis" means presenting such material on four (4) or more days within any
27 calendar month. Presenting such material on three (3) or fewer
28 nonconsecutive days within a calendar month with at least seven (7) days

1 between the days the material is presented shall be deemed occasional or
2 incidental and not a violation. However, presenting such material on
3 consecutive days or with less than a seven (7) day interval between
4 showings is a violation. An establishment under one ownership or
5 management at one (1) location shall be considered one (1) "business"
6 even though there may be more than one (1) screening room or viewing
7 room at that location.

8
9 Section 3. Section 21.15.1725 of the Long Beach Municipal Code is
10 amended to read as follows:

11 21.15.1725 Massage establishment.

12 "Massage establishment" means any business that offers massage
13 therapy in exchange for compensation, as more particularly defined in
14 Section 5.58.020.L of this Code. "Massage establishment" includes
15 massage as a primary use, or as an accessory use for a hotel over one
16 hundred (100) rooms, physician, chiropractor, health club, beauty salon, nail
17 salon, and the like.

18
19 Section 4. Section 21.32.035 of the Long Beach Municipal Code is
20 amended to read as follows:

21 21.32.035 Adult entertainment business.

22 Any business considered an "adult Entertainment business" as
23 defined in Subsection 21.15.110 of this Title shall be subject to special
24 locational standards as indicated in Chapter 21.45 (Special Development
25 Standards).

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Section 5. Table 32-1 "Uses in All Other Commercial Zoning Districts" of Chapter 21.32 of the Long Beach Municipal Code shall be amended by amending "Massage therapy" and by adding "Massage Establishment (Primary Use)" as follows:

TABLE 32-1 Uses in All Other Commercial Zoning Districts										
	Neighborhood			Community				Regional	Other	
Massage Establishment	A	A	A	A	A	A	A	A	A	Accessory use for hotel over one hundred (100) rooms, a physician, chiropractor, health club, beauty salon, nail salon, and the like.
Massage Establishment (Primary Use)	AP	AP	AP	AP	AP	AP	AP	AP	AP	

Section 6. Section 21.33.050 of the Long Beach Municipal Code is amended to read as follows:

21.33.050 Adult entertainment businesses.

Any business considered an "adult entertainment business," as defined in Subsection 21.15.110 of this Title, shall be subject to the special locational standards contained in Chapter 21.45 (Special Development Standards).

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1 Section 7. Section 21.34.030 of the Long Beach Municipal Code is
2 amended to read as follows:

3 21.34.030 Adult entertainment business.

4 Any business considered an "adult entertainment business" as
5 defined by Subsection 21.15.110 of this Title shall be subject to special
6 locational standards as indicated in Chapter 21.45 (Special Development
7 Standards).

8
9 Section 8. Section 21.35.030 of the Long Beach Municipal Code is
10 amended to read as follows:

11 21.35.030 Adult entertainment business.

12 Pertaining to the proximity of such uses to parks, any business
13 considered an "adult entertainment business" as defined by Subsection
14 21.15.110 of this Title shall be subject to special locational standards as
15 indicated in Chapter 21.45, "Special Development Standards".

16
17 Section 9. Section 21.52.030 is added to the Long Beach Municipal
18 Code to read as follows:

19 21.52.030 Massage establishments.

20 The following conditions shall apply to massage establishments
21 indicated in Table 32-1 where massage is the primary use:

22 A. For new massage establishments, the proposed location for
23 the massage establishment must not be fewer than seven hundred fifty
24 (750) feet from another massage establishment as measured from the
25 property lines. For existing massage establishments that are located within
26 seven hundred fifty (750) feet of another massage establishment at the time
27 this Section is enacted, those massage establishments are not required to
28 relocate but are subject to the provisions of Chapter 5.58 and Title 21 of the

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Long Beach Municipal Code, and any other applicable federal, state and local law.

B. No massage establishment located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area shall block visibility into the interior reception and waiting area through the use of curtains, closed blinds, tints, or any other material that obstructs or substantially darkens the view into the premises at any time. The interior of the business shall be plainly visible from the exterior of the business by passing vehicles and pedestrians.

C. A massage establishment shall post, near the public entrance of the establishment or in another conspicuous place in clear view of the public and employees where similar notices are customarily posted, a notice sized at least 8.5 inches by 11 inches with a minimum of 16-point font stating as follows:

If you or someone you know is being forced to engage in any activity and cannot leave —whether it is commercial sex, housework, farm work, construction, factory, retail, or restaurant work, or any other activity— call the National Human Trafficking Resource Center at 1-888-373-7888 or the California Coalition to Abolish Slavery and Trafficking (CAST) at 1-888-KEY-2-FRE(EDOM) or 1-888-539-2373 to access help and services.

Section 10. Section 21.51.243 of the Long Beach Municipal Code is hereby repealed.

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OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lona Beach, CA 90802-4664

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Section 11. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of July 10, 2018, by the following vote:

Ayes: Councilmembers: Gonzalez, Pearce, Price,
Supernaw, Mungo, Andrews,
Uranga, Austin.

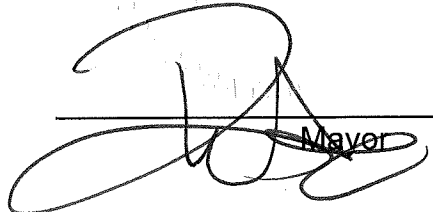
Noes: Councilmembers: None.

Absent: Councilmembers: Richardson.



City Clerk

Approved: 7/10/18
(Date)



Mayor