

ORDINANCE NO.

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; REPEALING SECTION 21.51.243; AND AMENDING CHAPTER 21.52 BY ADDING SECTION 21.52.240.5 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

1 for the operation of massage therapy businesses within Long Beach; and

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

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

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

27 WHEREAS, Assembly Bill 2194 further mandated that local governments
28 cannot require massage businesses or establishments to have a shower or bath, should

1 give strong consideration to establishing a registration program that they have the ability
2 to either suspend or revoke a registration of massage business for specific violations, and
3 cannot require a CAMTC certificate holder to submit fingerprints for a state or federal
4 background check; and

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

7 NOW, THEREFORE, the City Council of the City of Long Beach ordains as
8 follows:
9
10

11 Section 1. Chapter 5.58 of the Long Beach Municipal Code entitled
12 "Massage" is amended and restated in its entirety to read as follows:

13 CHAPTER 5.58

14 MESSAGE ESTABLISHMENTS
15

16 5.58.010 Purpose and Intent.

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

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

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

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

1 D. The permit requirements and restrictions imposed by this Chapter are
2 reasonably necessary to protect the health, safety and welfare of the citizens of
3 the City of Long Beach, as well as to ward against illegal sexual commerce.
4

5 5.58.020 Definitions.

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

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

17 C. "Applicant", in the case of a massage establishment permit, means an
18 individual, or if not an individual, the general partner, chief executive officer, chief
19 advisor, or other person responsible for the ownership and operation of the
20 massage establishment, who applies to obtain a permit under this Chapter. In the
21 case of a massage therapist permit, "applicant" means an individual who applies
22 for a permit under this Chapter.

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

26 E. "Certified massage practitioner" or "practitioner" means a person who is
27 currently certified as a massage practitioner by the CAMTC. A certified massage
28 practitioner who is an independent contractor is one who works at a massage

1 establishment (or has an outcall massage service), but is not a salaried employee
2 and does not share a percentage of massage proceeds with a massage
3 establishment.

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

5 G. "Chief of Police" is the Chief of Police of the Long Beach Police
6 Department or his or her designee.

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

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

19 J. "Massage establishment" means any business that offers massage
20 therapy in exchange for compensation. Any business that offers any combination
21 of massage and bath facilities, including, but not limited to, showers, baths, wet
22 and dry heat rooms, pools and hot tubs shall be deemed a massage establishment
23 under this Chapter. Massage establishment includes a Certified Massage
24 Practitioner who is the sole owner, operator, and employee of a massage
25 establishment operating as a sole proprietorship. For purposes of this Chapter,
26 massage establishment shall include, without limitation, the advertising and
27 soliciting of massages, and includes, but is not limited to, a Certified Massage
28 Practitioner who is the sole Owner, operator and employee of a massage

1 establishment operating as the sole proprietorship, as well as the massage
2 establishment which employs massage practitioners.

3 K. "Massage therapist" means any person who provides or administers
4 massage therapy services to another person for any form of consideration or
5 compensation 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 "masseuse" shall have the same meaning.

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

11 M. "Out-call massage therapy" is a massage therapy performed or
12 administered for money or other consideration by a licensed massage practitioner
13 at a location other than a licensed massage establishment.

14 N. "Permit" means the Massage Establishment Permit to engage in the
15 business of massage therapy as required by this Chapter and as issued by the
16 Chief of Police.

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

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

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

25 R. "Sole proprietorship" means and includes any legal form of business
26 organization where the business owner (or "sole proprietor") is the only person
27 employed by that business to provide massage services.

28 ///

1 5.58.030 Permit Requirements.

2 A. Massage Establishment Permit:

3 1. Except as otherwise provided in Section 5.58.040 of this Chapter,
4 it shall be unlawful for any person to engage in, conduct or carry on, or permit to
5 be engaged in, conducted or carried on, in or upon any premises within the City,
6 the operation of a massage establishment without first having obtained a massage
7 establishment permit issued by the Chief of Police pursuant to this Chapter. A
8 separate permit shall be obtained for each separate massage establishment and
9 any change in ownership to any establishment.

10 2. A Massage Establishment Permit issued under this Chapter does
11 not authorize the permittee to practice massage therapy or commence operations
12 pursuant to the permit until the permittee has complied with all business license
13 requirements, zoning/planning requirements, and all other applicable federal,
14 state, and City of Long Beach laws and regulations.

15 B. Administrative Use Permit (AUP) for Massage as Primary Use: In
16 addition to the permit requirement of this Chapter, and any other local or state
17 requirements, a Massage Establishment where Massage is the primary use of the
18 business must apply for and be issued, prior to operation, an Administrative Use
19 Permit (AUP), and such AUP shall be maintained, in accordance with Chapters
20 21.25 and 21.32 of the Long Beach Municipal Code.

21 C. Except as otherwise provided in Section 5.58.040 of this Chapter, it
22 shall be unlawful for any person to engage in, conduct, or carry on the function of
23 a massage therapist, whether as a sole practitioner or employee of a massage
24 establishment, without being certified by the CAMTC as a certified massage
25 therapist, certified massage practitioner, or conditionally certified massage
26 practitioner pursuant to California Business and Professions Code Sections 4600
27 et seq.

28 D. Persons practicing acupressure under the direction of a licensed State

1 of California acupuncturist shall obtain CAMTC certification as required in this
2 Chapter.

3
4 5.58.040 Permit Exemptions.

5 A. The permit requirements of this Chapter shall not apply to the following
6 persons while engaged in the performance of their duties:

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

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

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

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

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

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

25
26 5.58.050 Massage Establishment Permit Application and Fee.

27 A. Each applicant for a massage establishment permit shall file a written
28 application with the Chief of Police on a form provided by the Long Beach Police

1 Department. The application shall be forwarded to the Commercial Services
2 Bureau to determine if the use is allowed in the zoning district where the massage
3 establishment is proposed to be located. A massage establishment permit does
4 not authorize the permittee to provide massage therapy services, and it is unlawful
5 to do so without valid CAMTC certification.

6 B. Each application shall be accompanied by a nonrefundable fee, in an
7 amount established by resolution of the City Council. The application fee shall be
8 used to defray, in part, the costs of the investigation and report, and is not made in
9 lieu of any other fees or taxes required under this Code. Applicants are required
10 to make payment to the Department of Justice for fingerprinting services as
11 required by this Chapter. A copy of the receipt for the nonrefundable fee shall
12 accompany the application. Separate checks are not required to pay the required
13 fees as outlined in this Chapter.

14 C. Each applicant shall submit the following information in the application
15 under penalty of perjury:

- 16 1. The full, true name under which the business will be conducted.
- 17 2. The present or proposed address where the business is to be
18 conducted.
- 19 3. The applicant's full, true name, including all other names used
20 presently or in the past, date of birth, valid California driver's license number or
21 identification number, Social Security number, present residence address and
22 telephone number, gender, height, weight, color of hair, and color of eyes.
- 23 4. The names and addresses of all persons financially interested in
24 the business.
- 25 5. The applicant's two most recent street addresses and the dates of
26 residence at each address.
- 27 6. The name, street address, and telephone number of other
28 businesses in which the applicant has owned or been employed within the past

1 seven years. This shall include the dates of employment, positions held by the
2 applicant, and a contact person at each location. Applicant shall disclose or
3 declare that within the seven years preceding submission of the application, the
4 owner, operator, manager, and/or responsible managing officer/employee has not:

5 i. Had a massage establishment, massage therapist, or other
6 similar permit or license denied, suspended, or revoked by the City, or any other
7 federal, state or local agency;

8 ii. Engaged in conduct or operated a massage therapy or
9 similar establishment in a manner that would be grounds for denial, suspension, or
10 revocation of a permit under this Chapter; or Chapter 10.5 (commencing with
11 section 4600) of Division 2 of the Business and Professions Code; and

12 iii. Owned or managed a massage establishment or similar
13 establishment where persons required to be licensed were allowed to work without
14 the required license or permit.

15 7. A statement of the permit history of the applicant which identifies
16 whether or not such person has ever held a professional or vocational license or
17 permit, other than as required under this Chapter, issued by any agency, board,
18 city, county, territory, or state; the date of issuance of such permit or license;
19 whether or not the permit or license is still in effect; if the permit or license is no
20 longer in effect, whether or not it was revoked or suspended, and if so, the
21 reason(s) therefore. The name and location of the jurisdiction or agency, which
22 suspended or revoked such license, certificate, permit, or other authorization shall
23 also be included.

24 8. The name and street address of any other massage business
25 operated or managed by the applicant during the last seven years.

26 9. A statement whether the applicant intends to personally provide
27 massage therapy services at the business. The applicant for a massage
28 establishment permit is required to obtain a certificate from CAMTC if that person

1 intends to provide massage therapy services.

2 10. Written proof of the applicant's current, valid certification by
3 CAMTC, and proof of CAMTC certification for any employee(s) or independent
4 contractor(s) who will perform massage services at the applicant's massage
5 establishment.

6 11. Applicant's criminal convictions in California or any other
7 jurisdiction for offenses other than traffic violations within ten years before the date
8 of the application. For the purposes of this subsection, the term 'applicant' shall
9 apply to:

10 i. An individual if the applicant is an individual;

11 ii. Any officers, directors, stockholders holding more than 5
12 percent of the stock of the corporation, or the managing responsible officer, if the
13 applicant is a corporation; and

14 iii. A partner or the managing responsible officer, if the
15 applicant is a partnership.

16 12. The name, street address, telephone number, and date of birth
17 of each massage therapist or employee who is or will be employed at the massage
18 establishment, regardless of the nature of the employment.

19 13. The name, street address, and telephone number of any
20 massage business or other like establishment owned or operated by any person
21 whose name is required to be given pursuant to this section.

22 14. Documentation to prove that the applicant has a lawful right to
23 work in the United States, to include but not limited to: Department of Justice
24 Immigration and Naturalization Service Employment Authorization Document.

25 15. If the applicant is a corporation, the name of the corporation
26 shall be set forth exactly as shown in its articles of incorporation or charter,
27 together with the state and date of incorporation and the name, residence address,
28 and telephone number of each of its current officers, directors, along with the

1 amount of stock held.

2 16. If the applicant is a partnership, the application shall set forth the
3 name, residence street address, and telephone number of each of the partners. If
4 the applicant is a limited partnership, it shall furnish a copy of its certificate of
5 limited partnership as filed with the County Clerk. If one or more of the partners is
6 a corporation, the provisions of this subsection pertaining to corporate applicants
7 shall apply to the corporate partner. The applicant, if a corporation or partnership,
8 shall designate one of its officers or general partners to act as its responsible
9 managing officer/employee. Such person shall complete and sign all application
10 forms required of an individual applicant under this Chapter and shall, at all times,
11 meet all of the requirements set for permittees by this Chapter or the permit shall
12 be suspended until a responsible managing officer who meets such requirements
13 are designated. If no such person is found within 90 calendar days after the
14 permit's suspension, the corporation or partnership's permit is deemed canceled.
15 If the corporation or partnership wishes to reapply for a permit, a new application
16 shall be filed.

17 17. Two recent, identical, passport-size, color photographs of the
18 applicant and any employees or independent contractors who will be performing
19 massage services at the applicant's massage establishment.

20 18. If required, such as for applicants not certified by the CAMTC,
21 fingerprints taken by a representative of the Long Beach Police Department and
22 submitted to the Department of Justice for processing pursuant to this Chapter.

23 19. Written authorization for the City, its agents, and employees to
24 seek information and conduct an investigation into the truth of the statements set
25 forth in the application and into the background of the applicant and the
26 responsible managing officer/employee of the massage establishment.

27 20. Such other identification and information shall be provided as
28 required by the Chief of Police, necessary to discover the truth of the matters

1 specified and required in the application.

2
3 5.58.060 Application Review.

4 The application and supplementary material shall be reviewed by the Chief
5 of Police. If it is clear from the face of the application and supplementary material
6 that the applicant is not qualified for the Massage Establishment Permit, or if the
7 required fee has not been paid, the application may be denied without further
8 investigation. If it appears from the face of the application and supplementary
9 material that the applicant may be eligible for the Massage Establishment Permit,
10 the Chief of Police shall verify the information submitted by the applicant and shall
11 further investigate the qualifications of the applicant as follows:

12 A. For each applicant that is not CAMTC certified and does not
13 provide a copy of a current certification from the CAMTC, the Long Beach Police
14 Department shall take a full set of the applicant's fingerprints, and shall submit the
15 fingerprints to the Department of Justice for evaluation. Upon receipt of the report
16 from the Department of Justice, the Chief of Police shall review the criminal history
17 (if any) of the applicant;

18 B. The Chief of Police may conduct additional investigations in a
19 manner authorized by law when necessary to determine if the applicant meets the
20 qualifications for a permit pursuant to this Chapter; and

21 C. Upon receipt of an application for a massage establishment
22 permit, the Chief of Police shall refer the application to other City of Long Beach
23 departments, as appropriate, for review of the application and inspection of the
24 premises to ensure compliance with applicable local, state and federal laws and
25 regulations, including, but not limited to, building, health, and fire safety
26 regulations.

27 ///

28 ///

1 5.58.070 Permit Issuance or Denial.

2 A. The Chief of Police shall render a recommendation to the Commercial
3 Services Bureau to approve, conditionally approve, or deny the application within
4 thirty (30) days of filing an application. Alternatively, the Chief of Police may grant
5 a temporary conditionally approved permit if he finds that a prolonged pending
6 delay in permanent permit approval is to be anticipated, and it appears likely that a
7 permit will be granted at the end of that period.

8 B. If the Chief of Police, following investigation of the applicant, deems that
9 the applicant does not fulfill applicable requirements of this Chapter, he shall deny
10 said application. The Commercial Services Bureau shall notify the applicant by
11 dated written notice of the denial. The applicant shall have the right of appeal as
12 set forth in Section 5.06.030.

13 1. The Chief of Police shall deny a permit if any of the following
14 circumstances exist:

15 i. The application is incomplete and/or required
16 supplementary material is not submitted within 30 calendar days of the date the
17 material is requested;

18 ii. The applicant does not have sufficient proof of the required
19 CAMTC certification requirements pursuant to section 5.58.050 of this Chapter;

20 iii. The operation as proposed by the applicant would not
21 comply with all applicable ordinances and laws, including, but not limited to, the
22 City's building, health, and fire safety regulations;

23 iv. The applicant has previously had a massage
24 establishment permit, massage therapist permit, or any similar license, certificate,
25 or permit revoked by the city or any public agency;

26 v. The applicant is found to have made a material
27 misstatement or omission in the application or in a previous application.

28 vi. The applicant has been successfully prosecuted under the

1 Red Light Abatement Act (California Penal Code section 11225 et seq.) or any
2 similar law in another jurisdiction; or

3 vii. The applicant has been convicted of any of the following
4 offenses during the ten (10) years preceding the date of the application:

5 a. Conduct which requires registration under California
6 Penal Code section 290.

7 b. Conduct which is in violation of California Penal
8 Code sections 220, 245.3, 245.5, 261, 264.1, 266(h), 266(i), 266(j),
9 286, 288, 314, 315, 316, 318, 647(a), 647(b), or 647(d).

10 c. Crimes that are designated in California
11 Government Code section 51032(b).

12 d. Any crime involving dishonesty, fraud, deceit,
13 violence, or moral turpitude.

14 e. Conspiracy or attempt to commit any of the
15 aforementioned designated offenses.

16 f. Convictions to a charge of a violation of California
17 Penal Code sections 415 or 602, or any lesser included or related
18 offense, in satisfaction of, or as a substitute for, any of the previously
19 listed crimes, or any crime committed while engaged in the
20 ownership of a massage establishment or the practice of massage
21 therapy.

22 g. Convictions that have been expunged and
23 convictions under the laws of other jurisdictions which proscribe the
24 same or similar conduct as the crimes designated above shall be
25 reported.

26 h. Conviction of Health and Safety Code section 11550
27 or any offense involving the illegal sale, distribution or possession of
28 a controlled substance specified in Health and Safety Code sections

1 11054, 11055, 11056, 11057 or 11058.

2 viii. Whether the applicant has been subjected to a
3 permanent injunction against the conducting or maintaining of a nuisance pursuant
4 to California Penal Code sections 11225 et seq. or any similar provisions of law in
5 a jurisdiction outside the state.

6 C. If prosecution is pending against the applicant either for conduct listed in
7 this section or for conduct violating this Chapter's provisions, the Chief of Police
8 may postpone decision on the application until the final resolution of the
9 prosecution. As used in this subsection, prosecution means charges filed by the
10 City Prosecutor or District Attorney, administrative proceedings brought by a local
11 government or agency, or a civil or administrative action maintained by any city,
12 county, state, or government.

13 D. The Chief of Police may postpone decision on a license or permit
14 application until the City of Long Beach receives the applicant's fingerprint review
15 results from the California Department of Justice, for applicants not certified by the
16 CAMTC.

17 E. The Chief of Police shall give written notice of the grounds for denial to
18 the applicant personally or by first class mail, postage prepaid, at the address
19 provided in the application. The notice shall advise the applicant of the right to
20 appeal the decision as provided in Section 5.06.030.

21
22 5.58.080 Disqualifying Conduct.

23 A. Conviction of, or entry of a plea of guilty or no contest to, an offense that
24 requires registration under California Penal Code section 290, or which is a
25 violation of sections 266(i), 314, 315, 316, 318 or 647(b) or the sections in Part 1,
26 Title 9, Chapters 7.5 or 7.6 of the Penal Code or equivalent offenses under the
27 laws of another jurisdiction, or any offense involving sexual misconduct with
28 children or adults, even if expunged pursuant to Penal Code section 1203.4;

1 B. Conviction of, or entry of a plea of guilty or no contest to, an offense
2 involving the sale of a controlled substance specified in sections 11054, 11055,
3 11056, 11057, 11058, 11351, 11352, 11358 through 11363 or 11378 through
4 11380 of the California Health and Safety Code, or equivalent offenses under the
5 laws of another jurisdiction, even if expunged pursuant to Penal Code section
6 1203.4;

7 C. Conviction of, or entry of a plea of guilty or no contest to, a violation of
8 Penal Code Section 415 as a result of an arrest for violation of Penal Code section
9 647(b).

10 D. Any conduct presented in Section 5.58.090, or any prohibited activity or
11 violation of any relevant California and Federal statute, including but not limited to,
12 Business and Professions Code sections 4600, et seq.

13
14 5.58.090 Grounds for Suspension or Revocation of Permit.

15 A. Whenever any person fails to comply with any provision of this Chapter
16 pertaining to a permit issuance, or any rule or regulation adopted pursuant hereto,
17 or with any other provision or requirement of law, including, but not limited to, this
18 Municipal Code and any grounds that would warrant the denial of initial issuance
19 of a permit hereunder, the Chief of Police, after giving such person ten (10) days'
20 notice in writing specifying the time and place of hearing and requiring him to show
21 cause why his/her permit should not be revoked, shall conduct a hearing and
22 thereafter, if warranted, may revoke or suspend any one (1) or more permits held
23 by such person. The notice shall be served in the same manner as notice of
24 assessment is served under Section 3.80.444 of this Code. The Chief of Police
25 shall not issue a new permit after the revocation of a permit unless he is satisfied
26 that the applicant will thereafter comply with all provisions of this Chapter and the
27 rules and regulations adopted thereunder and all other applicable provisions of
28

1 law, and until the Chief of Police collects a fee in an amount sufficient to recover
2 the actual costs of processing as set by resolution.

3 B. The Chief of Police will provide the permittee with written notice of the
4 revocation by certified mail addressed to the street address of the massage
5 establishment.

6 C. Any person who engages in any business after the permit issued
7 therefore has been suspended or revoked, and before such suspended permit has
8 been reinstated or a new permit issued, shall be guilty of a misdemeanor.

9
10 5.58.100 Burden of Proof.

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

15
16 5.58.110 Appeal of Suspension or Revocation of Permit.

17 Any permittee, within ten (10) days after receipt of notice of revocation, may
18 file an appeal to the City Council through the City Clerk pursuant to Section
19 5.06.020 of this Code.

20
21 5.58.120 Minimum Age Requirement.

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

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

28 ///

1 5.58.130 Permit Nonassignable.

2 No permit shall be sold, transferred, or assigned by the permittee or by
3 operation of law, to any other person. Any such sale, transfer, assignment,
4 attempted sale, attempted transfer or attempted assignment shall constitute an
5 immediate revocation of the permit and the permit shall thereafter be null and void.

6 A new owner of a massage therapy establishment must submit a new
7 application for a massage establishment permit in accordance with this Chapter.

8
9 5.58.140 Change of Name or Location, Expansion of Building.

10 A. No permittee shall operate under any name or conduct any massage
11 establishment under any designation or location not specified in the permit.

12 B. In the case of any proposed change of name, notification thereof shall
13 be made to the Chief of Police at least 30 calendar days prior to the change. Any
14 proposed change of name is subject to the approval of the Chief of Police.

15 C. Any proposed change of location of a massage establishment is subject
16 to the approval of the Chief of Police, in addition to compliance with all City
17 ordinances and regulations.

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

21
22 5.58.150 Display of Permit.

23 A. The massage establishment permit and a copy of the CAMTC
24 certification of each and every massage therapist employed in the establishment
25 shall be displayed in an open and conspicuous place on the premises.

26 B. Each massage therapist shall be issued a photograph identification
27 badge from the Police Department. When visiting a location other than a massage
28

1 establishment in order to give a massage, each massage therapist shall display
2 the badge.

3
4 5.58.160 Facilities and Operating Requirements.

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

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

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

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

27 4. All equipment used in the massage therapy operation shall be
28 maintained in a clean and sanitary condition. Instruments utilized in performing

1 massage therapy shall not be used on more than one client unless they have been
2 sterilized, using standard sterilization methods.

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

7 6. Separate toilet facilities and washbasins are required for male
8 and female patrons as provided by Sections 8.26.050 and 8.26.060 of this Code.
9 All single-user toilet facilities shall be identified as all-gender toilet facilities by
10 signage that complies with Title 24 of the California Code of Regulations, and
11 designated for use by no more than one occupant at a time or for family or
12 assisted use, per California Health and Safety Code section 118600. Toilet
13 facilities shall be provided in convenient locations within the massage
14 establishment and shall include lavatories or wash basins provided with soap and
15 both hot and cold running water either in the toilet room or vestibule.

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

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

23 9. No alcoholic beverages shall be sold, served, furnished, kept,
24 consumed, or possessed on the premises of any massage establishment.

25 10. Controlled substances must not be consumed in a massage
26 establishment unless the person has a prescription for the substance.

27 11. No owner, manager, operator, responsible managing employee,
28 or permittee shall permit, and no massage therapist contractor shall offer or

1 perform, any service other than those permitted under this Chapter.

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

3 i. Expose the sexual or genital part of the permittee or
4 employee in the course of a massage therapy.

5 ii. Touch or expose the sexual or genital part of any other
6 person in the course of a massage therapy.

7 iii. Perform massage therapy on a patron with the intent or
8 purpose of arousing, appealing to, or gratifying the sexual desires of said patron.

9 iv. Perform any task or service associated with the massage
10 establishment while nude, semi-nude, or dressed in lingerie, see-through or
11 transparent attire.

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

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

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

24 16. Recordings.

25 i. No electrical, mechanical or artificial device shall be used
26 by the operator and/or manager, massage therapist or any employee of the
27 massage establishment for audio and/or video recording or for monitoring the
28 performance of a massage therapy, or the conversation or other sounds in the

1 massage rooms without the knowledge and written consent of the patron.

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

4 17. Locks prohibited.

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

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

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

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

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

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

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

1 5.58.170 Responsibility of Employer/Permittee.

2 A. It shall be the responsibility of the massage establishment Permittee
3 who employs or allows any person acting or purporting to act as a massage
4 therapist, or the employer of any person acting or purporting to act as a massage
5 therapist, to ensure that such person complies with the requirements of this
6 Chapter and all laws.

7 B. The massage establishment Permittee shall be held responsible for the
8 conduct of all persons on the premises who engage in providing the service of
9 massage therapy. Any act or omission of any person giving massage therapy, or
10 any service of massage therapy, shall be deemed the act or omission of the holder
11 of the massage establishment permit for the purposes of determining whether the
12 permit may be revoked, suspended, or denied. Proof of knowledge of any
13 violation of this section shall not be required for purposes of suspension,
14 revocation, or denial of a massage establishment permit.

15 C. CAMTC certification of all new massage therapists hired by a massage
16 establishment Permittee shall be submitted to the Chief of Police within 30 days of
17 hiring a new massage therapist. The Permittee shall also submit to the Chief of
18 Police two recent, identical, passport-size, color photographs of the new employee
19 or independent contractor who will be performing massage services at the
20 Permittee's massage establishment within 30 days of hiring the new message
21 therapist.

22
23 5.58.180 Permit Duration and Renewal.

24 A. A permit shall be valid for two years from the date of issuance unless
25 revoked or suspended.

26 B. A permittee may apply for a renewal of a permit 30 calendar days prior
27 to the expiration of the permit. If, upon the 31st day after the expiration of a
28 permit, an application of renewal has not been received, the permit shall be

1 deemed expired. Any permit issued under this Chapter shall be returned to the
2 Chief of Police within 48 hours of its expiration. No privilege to provide massage
3 therapy shall exist until an application for renewal has been granted. After a
4 permit expires, a new application may be filed.

5 C. Permits may be renewed by filing an application for renewal under
6 penalty of perjury updating information in the original application provided to the
7 Chief of Police.

8 D. Verification of continued certification, in good standing, from CAMTC, of
9 all massage therapists shall accompany the application for renewal. Verification of
10 CAMTC certification of all new massage therapists hired by a massage therapy
11 establishment shall be submitted to the Chief of Police within 30 days of hiring a
12 new massage therapist.

13 E. To renew a permit under this Chapter, the permittee shall pay the city a
14 nonrefundable fee in an amount set forth by resolution of the City Council. A copy
15 of the receipt for the nonrefundable fee shall accompany the application for
16 renewal.

17 F. After investigating the application for renewal, the Chief of Police shall
18 renew the permit if the permittee continues to meet the requirements for the
19 issuance of a permit, and none of the grounds for denial of a permit set forth in this
20 Chapter exist. The Chief of Police shall renew the permit within 30 calendar days
21 of such request if the information upon which the original application was granted
22 remains unchanged and no violations of this Chapter have been committed.

23 G. The permittee must update the Chief of Police of any violation of this
24 Chapter, violation of Business and Professions Code section 4609, or any change
25 in the status of the CAMTC certification of any employee or independent
26 contractor within 30 calendar days of the violation or change in certification status.

27 ///

28 ///

1 5.58.190 Applicability to Existing Businesses.

2 A. All persons currently holding a valid massage establishment permit shall
3 have six months following the enactment of this Ordinance in which to comply with
4 the requirements of this Chapter. Unless otherwise stated in this Chapter, if a
5 permittee does not attain compliance with this Chapter within the prescribed time
6 limits, the Chief of Police may immediately suspend or revoke the permittee's
7 permit(s).

8 B. The Chief of Police may issue a provisional permit to any massage
9 establishment, for a period not to exceed six months, if the applicant is able to
10 show that substantial compliance with the requirements of this Chapter has been
11 met and that the remaining compliance can be achieved within the period of the
12 provisional permit. This six-month provisional permit shall not be renewed.

13 C. Any business that holds itself out as a massage establishment in any
14 way will be subject to the provisions of this Ordinance, unless expressly exempt by
15 this Chapter.

16
17 5.58.200 Cease of Business.

18 If at any time during the duration of a permit issued under this Chapter a
19 permittee ceases to do business as a massage establishment, the permittee shall:

20 A. Return any permit issued under this Chapter to the Chief of
21 Police within five business days; and

22 B. Notify the Commercial Services Bureau.

23
24 5.58.210 Inspection.

25 The Police Department shall, from time to time and during any hour in
26 which a massage establishment is open for business, make an administrative
27 inspection of each massage establishment for the purpose of determining
28 compliance with this Chapter.

1 5.58.220 Enforcement and Penalties.

2 A. It is the duty of the Chief of Police to enforce the rules and regulations in
3 accordance with this Chapter.

4 B. Pursuant to the City's prosecutorial discretion, the City may enforce
5 violations of the provisions of this Chapter as criminal, civil and/or administrative
6 actions.

7 C. If a person falsely states or advertises or puts out any sign or card or
8 other device, or falsely represents to the public through any print or electronic
9 media, that he or she or any other individual is licensed, certified, or registered by
10 a governmental agency as a massage therapist or massage practitioner, that
11 person shall be subject to a civil penalty not to exceed two thousand five hundred
12 dollars (\$2,500) for each violation, to be assessed and collected in a civil action
13 brought by the City Attorney, District Attorney, or Attorney General.

14 D. Unless otherwise stated in this Chapter, violation of any provision of this
15 Chapter is a misdemeanor and is punishable by a fine of not more than one
16 thousand dollars (\$1,000.00) or by imprisonment for not more than six (6) months
17 or by both such fine and imprisonment. Revocation of a license or permit or
18 certificate shall not be a defense against prosecution.

19 E. Any massage establishment operated, conducted or maintained
20 contrary to the provisions of this Chapter shall be unlawful and a public nuisance,
21 and the City may, in addition to or in lieu of prosecuting a criminal action
22 hereunder, commence an action(s) or proceeding(s) for the abatement, removal
23 and enjoinder thereof, in a manner provided by law.

24
25 Section 2. Long Beach Municipal Code section 21.15.110 shall be
26 amended to read as follows:

27 21.15.110 - Adult entertainment business.

28 "Adult entertainment business" refers to any use defined in this

1 Section.

2 A. "Adult bookstore" means an establishment having twenty percent
3 (20%) or more of its stock in trade in books, magazines and other periodicals,
4 videotapes or other similar materials on display or available for sale or viewing on
5 the premises which are distinguished or characterized by their emphasis on matter
6 depicting, describing or relating to specified sexual activities or specified
7 anatomical areas.

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

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

20 D. "Adult motion picture theater" means an enclosed building with a
21 capacity of fifty (50) or more persons, which is used for representing on a regular
22 and substantial basis, material distinguished or characterized by an emphasis on
23 matter depicting, describing or relating to specified sexual activities or specified
24 anatomical areas for observation by patrons in the facility.

25 E. "Cabaret" means a nightclub, theater or other establishment which
26 features live performances by topless and/or bottomless dancers, exotic dancers,
27 strippers, wrestlers, or similar entertainers, and where such performances are
28 distinguished or characterized by an emphasis on specified sexual activities or

1 display specified anatomical areas.

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

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

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

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

21 H. For the purposes of this Section, "specified anatomical areas"
22 include the human male or female genitals, pubic hair, anus, cleft of the buttocks,
23 or vulva with less than a fully opaque covering and/or covered male genitals in a
24 turgid state. This provision may not be complied with by applying an opaque
25 covering simulating the appearance of the specific anatomical part required to be
26 covered.

27 I. For the purpose of this Section, "specified sexual activities"
28 include:

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

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

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

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

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

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

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

J. For the purpose of this Section, "regular and substantial basis" means presenting such material on four (4) or more days within any calendar month. Presenting such material on three (3) or fewer nonconsecutive days within a calendar month with at least seven (7) days between the days the material is presented shall be deemed occasional or incidental and not a violation. However, presenting such material on consecutive days or with less than a seven (7) day interval between showings is a violation. An establishment under one ownership or management at one (1) location shall be considered one (1) "business" even though there may be more than one (1) screening room or viewing room at that location.

///

1 Section 3. Long Beach Municipal Code section 21.15.1725 shall be
2 amended to read as follows:

3 21.15.1725 - Massage Establishment.

4 "Massage establishment" means any business that offers massage therapy
5 in exchange for compensation, as more particularly defined in Section 5.58.010.J
6 of this Code. "Massage establishment" includes massage as a primary use, or as
7 an accessory use for a hotel over one hundred (100) rooms, physician,
8 chiropractor, health club, beauty salon, nail salon, and the like.
9

10 Section 4. Long Beach Municipal Code section 21.32.035 shall be
11 amended to read as follows:

12 21.32.035 - Adult Entertainment business.

13 Any business considered an "adult Entertainment business" as defined in
14 Subsection 21.15.110 of this Title shall be subject to special locational standards
15 as indicated in Chapter 21.45 (Special Development Standards).
16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

Section 5. Table 32-1 of Chapter 21.32 of the Long Beach Municipal Code shall be amended to read 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. Long Beach Municipal Code section 21.33.050 shall be 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).

Section 7. Long Beach Municipal Code section 21.34.030 shall be amended to read as follows:

21.34.030 - Adult entertainment business.

Any business considered an "adult entertainment business" as defined by Subsection 21.15.110 of this Title shall be subject to special locational

standards as indicated in Chapter 21.45 (Special Development Standards).

Section 8. Long Beach Municipal Code section 21.35.030 shall be amended to read as follows:

21.35.030 - Adult entertainment business.

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

Section 9. Long Beach Municipal Code section 21.51.243 is hereby repealed.

Section 10. Long Beach Municipal Code Chapter 21.52 is hereby amended to add Section 21.52.240.5 to read as follows:

21.34.030 – Massage Establishments.

The following conditions shall apply to Massage Establishments indicated in Table 32-1 where massage is the primary use:

A. For new Massage Establishments, the proposed location for the Massage Establishment must not be fewer than five hundred (500) feet from another Massage Establishment as measured from the property lines. For existing Massage Establishments that are located within five hundred (500) feet of another Massage Establishment at the time this Section is enacted, those Massage Establishments are not required to relocate but are subject to the provisions of Chapter 5.58 and Title 21 of the 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

1 area shall block visibility into the interior reception and waiting area through
2 the use of curtains, closed blinds, tints, or any other material that obstructs
3 or substantially darkens the view into the premises at any time. The interior
4 of the business shall be plainly visible from the exterior of the business by
5 passing vehicles and pedestrians.

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

11 **If you or someone you know is being forced to engage in**
12 **any activity and cannot leave —whether it is commercial**
13 **sex, housework, farm work, construction, factory, retail,**
14 **or restaurant work, or any other activity— call the**
15 **National Human Trafficking Resource Center at 1-888-**
16 **373-7888 or the California Coalition to Abolish Slavery**
17 **and Trafficking (CAST) at 1-888-KEY-2-FRE(EDOM) or**
18 **1-888-539-2373 to access help and services.**

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

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

///

///

///

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20____, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor

REDLINED VERSION

21.15.110 - Adult entertainment business.

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

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

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

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

D. "Adult motion picture theater" means an enclosed building with a
capacity of fifty (50) or more persons, which is used for representing on a regular
and substantial basis, material distinguished or characterized by an emphasis on
matter depicting, describing or relating to specified sexual activities or specified
anatomical areas for observation by patrons in the facility.

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

6 ~~F. "Massage parlor" means an establishment regulated as a~~
7 ~~massage parlor pursuant to Chapter 5.58 of the municipal code where, for any~~
8 ~~form of consideration or gratuity, massage, alcohol rub, administration of~~
9 ~~fomentations, electric or magnetic treatments or any other treatment or~~
10 ~~manipulation of the human body occurs.~~

11 ~~A massage parlor is a principal land use where the massage service~~
12 ~~is the primary business conducted on the premises.~~

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

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

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

28 HG. "Sexual encounter center" means any business, agency or

1 person who, for any form of consideration or gratuity, provides a place where three
2 (3) or more persons may congregate, assemble or associate for the purpose of
3 engaging in specified sexual activities or exposing specified anatomical areas.

4 H. For the purposes of this Section, "specified anatomical areas"
5 include the human male or female genitals, pubic hair, anus, cleft of the buttocks,
6 or vulva with less than a fully opaque covering and/or covered male genitals in a
7 turgid state. This provision may not be complied with by applying an opaque
8 covering simulating the appearance of the specific anatomical part required to be
9 covered.

10 J. For the purpose of this Section, "specified sexual activities"
11 include:

- 12 1. Actual or simulated sexual intercourse, anal intercourse,
13 oral or anal copulation, bestiality, pedophilia, necrophilia, direct physical
14 stimulation of unclothed genitals, flagellation or torture in the context of sexual
15 relationship, or the use of excretory functions in the context of a sexual
16 relationship; or
- 17 2. Clearly depicted human genitals in a state of sexual
18 stimulation, arousal or tumescence; or
- 19 3. Use of human or animal masturbation, sodomy, oral
20 copulation, coitus, ejaculation; or
- 21 4. Fondling or touching of nude human genitals, pubic region,
22 buttocks or female breast; or
- 23 5. Masochism, erotic or sexually oriented torture, beating or
24 the infliction of pain; or
- 25 6. Erotic or lewd touching, fondling or other contact with an
26 animal by a human being; or
- 27 7. Human erection, urination, menstruation, vaginal or anal
28 irrigation.

1 KJ. For the purpose of this Section, "regular and substantial basis"
2 means presenting such material on four (4) or more days within any calendar
3 month. Presenting such material on three (3) or fewer nonconsecutive days within
4 a calendar month with at least seven (7) days between the days the material is
5 presented shall be deemed occasional or incidental and not a violation. However,
6 presenting such material on consecutive days or with less than a seven (7) day
7 interval between showings is a violation. An establishment under one ownership or
8 management at one (1) location shall be considered one (1) "business" even
9 though there may be more than one (1) screening room or viewing room at that
10 location.

11
12
13
14
15 21.15.1725 - Massage ~~therapy~~Establishment.

16
17 "Massage ~~therapy~~establishment" means the non-adult entertainment
18 business of massage. Non-adult entertainment massage is limited to an accessory
19 use to a physician, chiropractor, health club or beauty salon any business that
20 offers massage therapy in exchange for compensation, as more particularly
21 defined in Section 5.58.010.J of this Code. "Massage establishment" includes
22 massage as a primary use, or as an accessory use for a hotel over one hundred
23 (100) rooms, physician, chiropractor, health club, beauty salon, nail salon, and the
24 like.
25
26
27
28

21.32.035 - Adult Entertainment business.

Any business considered an "adult Entertainment business" as defined in Subsections 21.15.110.A through 21.15.110.K of this Title shall be subject to special locational standards as indicated in Chapter 21.45 (Special Development Standards).

TABLE 32-1

Uses in All Other Commercial Zoning Districts

	Neighborhood			Community				Regional	Other	
Massage therapy Establishment (ent)	A	A	A	A	A	A	A	A	A	Accessory use for a hotel over one hundred (100) rooms, physician, chiropractor, health club, beauty salon, nail salon, and the like. Special conditions (see Section 21.45.243). Special adult entertainment standards for massage parlor (see Section 21.45.110).
Massage Establishment (Primary Use)	AP	AP	AP	AP	AP	AP	AP	AP	AP	

1 21.33.050 - Adult entertainment businesses.

2 Any business considered an "adult entertainment business," as
3 defined in Subsections 21.15.110 ~~A through 21.15.110.K~~ of this Title, shall be
4 subject to the special locational standards contained in Chapter 21.45 (Special
5 Development Standards).

6
7
8
9 21.34.030 - Adult entertainment business.

10 Any business considered an "adult entertainment business" as
11 defined by Subsections 21.15.110 ~~A through 21.15.110.K~~ of this Title shall be
12 subject to special locational standards as indicated in Chapter 21.45 (Special
13 Development Standards).

14
15
16
17 21.35.030 - Adult entertainment business.

18 Pertaining to the proximity of such uses to parks, any business
19 considered an "adult entertainment business" as defined by Subsections
20 21.15.110 ~~A through 21.15.110.K~~ of this Title shall be subject to special locational
21 standards as indicated in Chapter 21.45, "Special Development Standards".

22 **Formatted:** Indent: First line: 1", Space After: 0 pt. No
23 widow/orphan control

24 ~~21.51.243 - Massage therapy.~~

25 ~~Massage therapy as a nonadult entertainment business~~
26 ~~shall be limited to an accessory use for a physician, chiropractor, health club,~~
27 ~~beauty salon, or hotel over one hundred (100) rooms.~~

28 **Formatted:** Normal, Indent: Left: 0.5", First line: 1",
Line spacing: Exactly 24 pt, No widow/orphan control