

ORDINANCE NO. **11969**  
(New Series)

O.77-82

DEC 21 1976

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 3, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 35, SECTIONS 33.3501 THROUGH 33.3523; AND AMENDING CHAPTER IV, ARTICLE 2, BY REPEALING SECTION 42.0211 AND ADDING SECTION 42.0215, ALL RELATING TO REGULATION OF MASSAGE BUSINESS AND MASSAGE TECHNICIANS.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter III, Article 3, of the San Diego Municipal Code be and the same is hereby amended by adding Division 35, Sections 33.3501 through 33.3523 to read as follows:

ARTICLE 3

DIVISION 35

MESSAGE BUSINESS AND MESSAGE TECHNICIANS

SEC. 33.3501 CITATION OF ORDINANCE

This division may be cited as the San Diego Massage Business and Massage Technicians Regulatory Ordinance.

SEC. 33.3502 PURPOSE AND INTENT

It is the purpose and intent of this division to provide for the orderly regulation of the business of massage and massage technicians in the City of San Diego by establishing certain minimum standards for the conduct of this type of business to protect the public health and welfare of the residents of the City of San Diego.

This ordinance is adopted pursuant to Chapter 6, Part I of Division I of Title 5 (Sections 51030 through

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51034) of the California Government Code.

SEC. 33.3503 MASSAGE BUSINESS--POLICE REGULATED

The business of massage is hereby designated  
"Police Regulated."

SEC. 33.3504 DEFINITIONS

Whenever used in this division, the following  
words and phrases shall mean:

(a) "Massage" shall mean any method of pressure  
on, or friction against, or stroking, kneading, rubbing,  
tapping, pounding, vibrating, or stimulating the external  
parts of the human body with the hands or other parts of  
the body, with or without the aid of any mechanical or  
electrical apparatus or appliances, or with or without  
supplementary aids such as rubbing alcohol, liniments,  
antiseptics, oils, powder, creams, lotions, ointments  
or other similar preparations commonly used in this  
practice.

(b) "Massage Establishment" shall mean any establish-  
ment having a fixed place of business where any individual,  
firm, association, partnership, corporation, or combina-  
tion of individuals, engages in, conducts, carries on  
or permits to be engaged in, conducted or carried on  
"massages" as defined in this division.

(c) "Off--Premises Massage" shall mean the activity  
of providing massage services at a location other than  
premises licensed as a massage establishment.

(d) "Massage Technician" shall mean any person,  
who gives or administers to another person, for any  
form of consideration whatsoever, a "massage" as defined  
in this division.

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MAY 12 1978

11969

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(e) "License" shall mean the business license to operate a massage establishment or off-premises massage business required by this division.

(f) "Permit" shall mean the permit to engage in the activities of a massage technician required by this division.

SEC. 33.3505 MASSAGE ESTABLISHMENT--LICENSE REQUIRED

It shall be unlawful for any person, association, partnership or corporation to engage in, conduct, carry on, or to permit to be engaged in, conducted, or carried on, in or upon any premises within the City of San Diego, the operation of a "massage establishment" as herein defined, without a license issued pursuant to the provisions of this division for each and every such massage establishment. The license required hereby shall be in addition to any business tax license required by this Code.

SEC. 33.3506 MASSAGE ESTABLISHMENT LICENSE

(a) Any person, association, partnership, or corporation desiring to obtain a license to operate a massage establishment shall make an application to the Chief of Police or his designated representative. An annual nonrefundable fee of Two Hundred Twenty-five Dollars (\$225) shall accompany the submission of each application to defray, in part, the cost of investigation, inspection and enforcement of this division. The annual nonrefundable renewal fee shall be One Hundred Dollars (\$100).

(b) Each applicant for a license to operate a massage establishment shall furnish the following information to the Chief of Police:

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(1) The full true name and any other names used by the applicant.

(2) The present address and telephone number of the applicant.

(3) The proposed address of the massage establishment.

(4) Each residence and business address of applicant for the three (3) years immediately preceding the date of the application, and the inclusive dates of each such address.

(5) Written proof that the applicant is at least eighteen (18) years of age.

(6) Applicant's height, weight, color of eyes and hair.

(7) Two photographs of applicant at least two inches by two inches taken within the six (6) months immediately preceding the date of application. One photograph shall be retained by the Chief of Police and one photograph shall be affixed to the license.

(8) Applicant's business, occupation and employment history for the three (3) years immediately preceding the date of application.

(9) The business license or permit history of the applicant: whether such applicant has ever had any license or permit issued by any agency or board, City, County, or State revoked or suspended, or has had any professional or vocational license or permit

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MAY 12 1978

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revoked or suspended, and the reason therefor.

(10) All criminal convictions, except traffic violations, and a statement of the dates and places of such convictions.

(11) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its Articles of Incorporation or Charter, together with the State and date of incorporation and names and residence addresses of each of its current officers and directors, and of each stockholder holding more than five percent (5%) of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and residence addresses of each of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership as filed with the County Clerk. If one or more of the partners is a corporation, the provisions of this section pertaining to corporate applicants shall apply. The applicant corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer. Such person shall complete and sign all application forms required of an individual applicant under this division, but only one application fee shall be charged.

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MAY 12 1978

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(12) The name and address of the owner and lessor of the real property upon or in which the business is to be conducted, and a copy of the lease or rental agreement.

(13) Such other identification and information as may be required in order to discover the truth of the matters herein specified as required to be set forth in the application.

(14) The Chief of Police may require the applicant to furnish fingerprints when needed for the purpose of establishing identification.

(c) The Chief of Police shall have a reasonable time, not to exceed thirty (30) days, in which to investigate the application and background of the applicant.

(d) A license shall be issued within thirty (30) days of receipt of the application to any applicant who has furnished all of the information required by this section in the application for such license, provided:

(1) The applicant has not knowingly made a material false statement in the application for the license;

(2) The applicant, if an individual, or in the case of an applicant which is a corporation or partnership, any of its officers, directors, holders of five percent (5%) or more of the corporation's stock, or partners, has not within five (5) years immediately preceding the date of the filing of the application been convicted in a court of competent jurisdiction of any of the following offenses:

MICROFILMED 11969

MAY 12 1978  
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Section 266i, 315, 316, 318, or subdivision (b) of Section 647 of the California Penal Code; an offense which requires registration as a sex offender with the Chief of Police under Penal Code Section 290; any felony offense involving the sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code; or any offense in another state which, if committed in this state would have been punishable as one or more of the heretofore mentioned offenses;

(3) The massage establishment as proposed by the applicant would comply with all applicable laws including but not limited to, health, zoning, fire and safety requirements and standards;

(4) The applicant is at least eighteen (18) years of age; and

(5) The applicant has fulfilled the requirements of paragraphs (a) through (i) of Section 33.3513.

**SEC. 33.3507 OFF-PREMISES MASSAGE BUSINESS--LICENSE REQUIRED**

It shall be unlawful for any person, association, partnership or corporation to engage in, conduct, carry on, or advertise, or to permit to be engaged in, ~~conducted,~~ or carried on, any off-premises massage business within the City of San Diego without a license issued pursuant to the provisions of this division for each and every such massage business. The license required hereby shall be in addition to any business tax license required by this Code.

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SEC. 33.3508 OFF-PREMISES MASSAGE BUSINESS LICENSE

(a) Any person, association, partnership, or corporation desiring to obtain a license to conduct an off-premises massage business shall make an application to the Chief of Police or his designated representative. An annual nonrefundable fee of Two Hundred Twenty-five Dollars (\$225) shall accompany the submission of each application to defray, in part, the cost of investigation, inspection and enforcement of this division. The annual nonrefundable renewal fee shall be One Hundred Dollars (\$100).

(b) Each applicant for a license to conduct an off-premises massage business shall furnish to the Chief of Police all the information required by Section 33.3506(b) (1) through 33.3506(b) (14) of this division.

(c) The Chief of Police shall have a reasonable time, not to exceed thirty (30) days, in which to investigate the application and background of the applicant.

(d) A license shall be issued within thirty (30) days of receipt of the application to any applicant who has furnished all of the information required by this division in the application for such license, provided:

(1) The applicant has not knowingly made a material false statement in the application for the license;

(2) The applicant, if an individual, or in the case of an applicant which is a corporation or partnership, any of its officers, directors, holders of five percent (5%) or more of the corporation's

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stock, or partners, has not within five (5) years immediately preceding the date of the filing of the application been convicted in a court of competent jurisdiction of any of the following offenses: Section 266i, 315, 316, 318, or subdivision (b) of Section 647 of the California Penal Code; an offense which requires registration as a sex offender with the Chief of Police under Penal Code Section 290; any felony offense involving the sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code; or any offense in another state which, if committed in this state would have been punishable as one or more of the heretofore mentioned offenses;

(3) The applicant is at least eighteen (18) years of age.

(e) Off-premises massage operations shall be carried on only between the hours of 7 a.m. and 12 Midnight.

SEC. 33.3509 MESSAGE TECHNICIAN--PERMIT REQUIRED

It shall be unlawful for any person to engage in the business of acting or act as a massage technician without a permit issued pursuant to the provisions of this division.

SEC. 33.3510 MESSAGE TECHNICIAN PERMIT

(a) Any person desiring to obtain a permit to act as a massage technician shall make an application to the Chief of Police, or his designated representative. An annual nonrefundable fee of Twenty Dollars (\$20) shall accompany the submission of each application to defray, in part, the cost of investigation and examination as required by this division.

The annual nonrefundable renewal fee shall be Fifteen Dollars

(\$15).

(b) Each applicant for a permit to act as a massage technician shall furnish the following information to the Chief of Police:

(1) The full true name and any other names used by the applicant.

(2) The present address and telephone number of the applicant.

(3) Each residence and business address of applicant for the three (3) years immediately preceding the date of the application, and the inclusive dates of each such address.

(4) Written proof that the applicant is at least eighteen (18) years of age.

(5) Applicant's height, weight, color of eyes and hair.

(6) Two photographs of applicant at least two inches by two inches taken within the six (6) months immediately preceding the date of application. One photograph shall be retained by the Chief of Police and one photograph shall be affixed to the permit.

(7) Applicant's business, occupation and employment history for the three (3) years immediately preceding the date of application.

(8) The business license or permit history of the applicant: whether such applicant has ever had any license or permit issued by any agency or board, City, County, or State revoked or suspended, or has

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-10-

**MAY 12 1978 11969**

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had any professional or vocational license or permit revoked or suspended, and the reason therefor.

(9) All criminal convictions, except traffic violations, and a statement of the dates and places of such convictions.

(10) The massage establishment, if any, at which the applicant expects to be employed.

(11) A certificate from a medical doctor, licensed to practice in the State of California, stating that the applicant has within thirty (30) days immediately preceding the date of application been examined and had no communicable disease on the date of the examination.

(12) Proof of successful completion of an examination prepared and conducted by the Department of Public Health of the County of San Diego wherein the applicant is required to demonstrate a basic knowledge of anatomy, physiology, hygiene and manual and mechanical massage. The examination shall include both a practical demonstration and a written test. The written test shall test the competency and ability of the applicant to engage in the practice of massage. In lieu of passing such examination, applicant may furnish written proof of graduation from a school or institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a residence course study of not less than one hundred (100) hours to be given in not more than

**MICROFILMED**

-11-

MAY 12 1978

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three (3) calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning, following the successful completion of such course of study or learning, and which school has been approved by the State Superintendent of Public Instruction pursuant to the California Education Code, Section 29025.

(13) Such other identification and information as may be required in order to discover the truth of the matters herein specified as required to be set forth in the application.

(14) The Chief of Police may require the applicant to furnish fingerprints when needed for the purpose of establishing identification.

(c) The Chief of Police shall have a reasonable time, not to exceed thirty (30) days, in which to investigate the application and background of the applicant.

(d) A permit shall be issued within thirty (30) days of receipt of the application to any applicant who has furnished all of the information required by this section in the application for such permit, provided:

(1) The applicant has not knowingly made a material false statement in the application for the permit;

(2) The applicant has not within five (5) years immediately preceding the date of the filing of the application been convicted in a court of competent jurisdiction of any of the following offenses:

Section 266i, 315, 316, 318, or subdivision (b) of Section 647 of the California Penal Code; an offense

**MICROFILMED**

**MAY 12 1978**

which requires registration as a sex offender with the Chief of Police under Penal Code Section 290; any felony offense involving the sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code; or any offense in another state which, if committed in this state would have been punishable as one or more of the heretofore mentioned offenses;

(3) The applicant is at least eighteen (18) years of age;

(4) The applicant has furnished an acceptable medical certificate in compliance with this section; and

(5) The applicant has furnished proof of graduation from a school of massage as provided in this section or in lieu thereof has furnished proof of successful completion of a proficiency examination administered by the San Diego County Health Department as provided in this section. This requirement shall not apply to any person who had been acting or employed as a massage technician on a regular basis for three (3) years immediately preceding the date of July 2, 1976, provided satisfactory proof of such employment can be established.

(e) A permit to act as a massage technician does not authorize the operation of a massage establishment. Any person obtaining a permit to act as a massage technician who desires to operate a massage establishment must separately apply for a license therefor. A person who

applies for a license to operate a massage establishment and who desires to act as a massage technician within said establishment who pays the fee required by Section 33.3506 of this division shall not be required to pay the fee required by this section.

SEC. 33.3511 EXEMPTIONS

This division shall not apply to the following classes of individuals; and no permit shall be required of such persons while engaged in the performance of the duties of their respective professions:

(a) Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the State of California.

(b) Nurses who are registered as such under the laws of the State of California.

(c) Barbers and beauticians who are duly licensed under the laws of the State of California.

(d) Trainers of any amateur, semiprofessional or professional athlete or athletic team.

SEC. 33.3512 OPERATIVE DATE--MASSAGE TECHNICIANS

All persons operating or employed as massage technicians at the time this division becomes effective shall obtain a Massage Technician Permit within sixty (60) days of the effective date of this division.

SEC. 33.3513 MASSAGE ESTABLISHMENTS--OPERATING REQUIREMENTS

No person, association, partnership, or corporation shall engage in, conduct or carry on, or permit to be

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engaged in, conducted or carried on the operation of a  
massage establishment unless each and all of the following  
requirements are met:

(a) Each person employed or acting as a  
Massage Technician shall have a valid permit issued  
pursuant to the provisions of this division, and  
it shall be unlawful for any owner, operator,  
responsible managing employee, manager or permittee  
in charge of or in control of a massage establishment  
to employ or permit any person to act as a Massage  
Technician who is not in possession of a valid,  
unrevoked Massage Technician Permit.

(b) The possession of a valid massage establish-  
ment business license does not authorize the possessor  
to perform work for which a Massage Technician Permit  
is required.

(c) Massage operations shall be carried on,  
and the premises shall be open, only between the  
hours of 7 a.m. and 12 Midnight.

(d) A list of services available and the cost  
of such services shall be posted in an open and  
conspicuous public place on the premises. The  
services shall be described in readily understandable  
language. No owner, operator, responsible managing  
employee, manager, or permittee in charge of, or  
in control of the massage establishment, shall permit,  
and no massage technician shall offer to perform,  
any services other than those posted.

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(e) The massage establishment business license, and a copy of the permit of each and every massage technician employed or working in the establishment shall be displayed in an open and conspicuous public place on the premises.

(f) A minimum of one (1) tub or shower and one (1) toilet and wash basin shall be provided for the patrons in every massage establishment; however, if male and female patrons are to be served simultaneously at said establishment, separate toilet facilities shall be provided for male and female patrons. Hot and cold running water under pressure shall be provided to all wash basins, bathtubs, showers, and similar equipment. Each wash basin shall be provided with soap or detergent and sanitary towels placed in permanently installed dispensers. A trash receptacle shall be provided in each toilet room.

(g) Clean and sanitary towels, sheets and linens shall be provided for each patron receiving massage services. No common use of towels or linens shall be permitted and reuse is prohibited unless they have been first relaundered. Heavy white paper may be substituted for sheets provided that such paper is used once for each person, then discarded into a sanitary receptacle.

(h) Disinfecting agents and sterilizing equipment sufficient to assure the cleanliness and safe condition thereof shall be provided for any instruments used in performing any massage.

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(i) Pads used on massage tables shall be covered in a workmanlike manner with durable, washable plastic or other waterproof material.

SEC. 33.3514 OPERATIVE DATE--MESSAGE ESTABLISHMENTS

Any person, association, partnership or corporation engaging in, conducting, or carrying on the operation of a "massage establishment" on the effective date of this division, shall, except as otherwise provided herein, comply with all of the provisions of this division within sixty (60) days of the effective date of this division.

Any person, association, partnership or corporation coming within this section shall comply with paragraph (f) of Section 33.3513 no later than one year after the effective date of this division.

SEC. 33.3515 NAME OF BUSINESS

No person licensed to do business as herein provided shall operate under any name or conduct his business under any designation not specified in his license.

SEC. 33.3516 CHANGE OF LOCATION

A change of location of a licensed massage establishment shall be approved by the Chief of Police provided all applicable provisions of this division are complied with and a nonrefundable change of location fee of Fifteen Dollars (\$15) has been paid to the Chief of Police, and the

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Health Department and the Department of Building Inspection have inspected the new location and have advised the Chief of Police that it complies with the requirements of this division.

SEC. 33.3517 SALE OR TRANSFER

THIRTY (30) DAYS AFTER THE SALE OR TRANSFER OF ANY INTEREST IN A MASSAGE ESTABLISHMENT OR OFF-PREMISES MASSAGE BUSINESS, ANY LICENSE HERETOFORE ISSUED SHALL BE NULL AND VOID. A NEW APPLICATION SHALL BE MADE BY ANY PERSON, FIRM, OR ENTITY DESIRING TO OWN OR OPERATE THE MASSAGE ESTABLISHMENT OR OFF-PREMISES MASSAGE BUSINESS. A FEE OF TWENTY DOLLARS (\$20) SHALL BE PAYABLE FOR EACH SUCH APPLICATION INVOLVING SALE OR OTHER TRANSFER OF ANY INTEREST IN AN EXISTING MASSAGE ESTABLISHMENT OR OFF-PREMISES MASSAGE BUSINESS. THE PROVISIONS OF SECTION 33.3506 OF THIS DIVISION SHALL APPLY TO ANY PERSON, ASSOCIATION, PARTNERSHIP, OR CORPORATION APPLYING FOR A MASSAGE ESTABLISHMENT LICENSE FOR PREMISES PREVIOUSLY USED AS SUCH ESTABLISHMENT.

Any such sale or transfer of any interest in any existing massage establishment or any application for an extension of expansion of the building or other place of business of the massage establishment shall require inspection and shall require compliance with Section 33.3513 of this division.

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SEC. 33.3518 INSPECTION

The Police Department and Health Department shall make reasonable and periodic inspections of the foyer, hallways, restrooms and other areas used or intended for use in common by customers, and unoccupied rooms of each and every massage establishment in the City of San Diego during hours of the business operation for the purpose of determining that there is compliance with the provisions of this division and the laws of the State of California.

SEC. 33.3519 SUSPENSION OR REVOCATION OF LICENSE OR PERMIT

In the event that any person holding a license or permit issued pursuant to this division shall violate or cause or permit to be violated any of the provisions of this division, or any provisions of any other ordinance or law relating to or regulating said business or occupation, or shall conduct or carry on such business or occupation in an unlawful manner, or is convicted of any of those crimes contained in Section 33.3506(d)(2), the Chief of Police may, in addition to other penalties provided by ordinance, suspend or revoke the license or permit after the licensee or permittee has been given the opportunity for a hearing as described in Section 33.3520.

SEC. 33.3520 HEARING

Any person who has been denied a license or permit, or any person whose license or permit issued pursuant to this division has been suspended or revoked, may

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request a hearing conducted by the City Manager's office. The request for a hearing must be in writing and must be made within ten (10) calendar days from the date of the decision denying, suspending or revoking the license or permit. Upon receiving a written request for a hearing, the City Manager or his delegate shall call a hearing and shall set forth in writing and send to the applicant, licensee or permittee by means of registered mail, certified mail or hand delivery, notice that within a period of not less than five (5) nor more than fourteen (14) days from the date of the posting of said notice, a hearing shall be conducted to determine the existence of any facts which constitute grounds for the denial, suspension or revocation of a license or permit. The notification shall include the date, time and place of hearing. The hearing shall be conducted by a hearing officer, appointed by the City Manager. The applicant, licensee or permittee may have the assistance of counsel or may appear by counsel and shall have the right to present evidence. In the event that the applicant, licensee or permittee, or counsel representing the applicant, licensee or permittee fails to appear at the hearing, the evidence of the existence of facts which constitute grounds for denial, suspension or revocation of the license or permit shall be considered un rebutted. A copy of the decision of the hearing officer specifying findings

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-20-

MAY 12 1978

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of fact and the reasons for the decision shall be furnished to the applicant or licensee. The hearing officer shall inform the party against whom the decision is rendered of his right to appeal pursuant to Section 33.3522 of this division.

SEC. 33.3521 STAY OF SUSPENSION OR REVOCATION

The effect of a decision by the hearing officer shall be stayed while an appeal to the City Council is pending or until the time for filing such appeal has expired.

SEC. 33.3522 APPEAL

Within ten (10) days after receipt of the decision of the hearing officer, any party affected by the decision may file with the City Clerk a written request for a public hearing before the City Council. Upon the filing of such a request, the City Clerk shall within fourteen (14) days thereafter set the matter for a hearing and shall notify the appellant of the date, time and place of such hearing at least five (5) days before the hearing date. At the hearing, any person may present evidence in opposition to, or in support of, appellant's case. At the conclusion of the hearing, the City Council shall either grant or deny the appeal; the decision of the City Council shall be final.

SEC. 33.3523 CONSTITUTIONALITY

If any section, subsection, sentence, clause or phrase of this division is for any reason held to be

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invalid, such decision shall not affect the validity of the remaining portions of this division. The Council hereby declares that it would have adopted the division and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 2. That Chapter IV, Article 2, of the San Diego Municipal Code is hereby amended by repealing Section 42.0211 and adding Section 42.0215 to read as follows:

SEC. 42.0215 MASSAGE BUSINESSES AND TECHNICIANS--REGULATED  
Health regulated businesses shall include massage businesses and massage technicians as defined in Section 33.3504 of this Code.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By Eugene P. Gordon  
Eugene P. Gordon  
Deputy City Attorney

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MAY 12 1978

-22-

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10/28/76  
Orig. Dept.: Councilman Ellis  
Revised 11/29/76

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DEC 21 1976

Passed and adopted by the Council of The City of San Diego on  
by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Gil Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Lee Hubbard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Gade	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<del>Jim Ellis</del>	<del><input type="checkbox"/></del>	<del><input type="checkbox"/></del>	<del><input type="checkbox"/></del>	<del><input type="checkbox"/></del>
Jess D. Haro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON

Mayor of The City of San Diego, California.

EDWARD NIELSEN

City Clerk of The City of San Diego, California.

(Seal)

By Kathleen Martinez, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

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DEC 21 1976

, and on

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

EDWARD NIELSEN

City Clerk of The City of San Diego, California.

By Kathleen Martinez, Deputy.

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S. ... ..  
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MICROFILMED MAY 12 1978

Office of the City Clerk, San Diego, California

Ordinance  
Number

11969

Adopted

DEC 21 1976

ATTORNEY(S)

San Diego, City of  
202 C St., 12th Floor  
San Diego, CA 92101  
Attn: Kathleen Martinez

CERTIFICATE OF PUBLICATION

No.

IN THE MATTER OF

MESSAGE BUSINESS

ORDINANCE NO. 11969

(New Series)

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 3, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 35, SECTIONS 33.3501 THROUGH 33.3523; AND AMENDING CHAPTER IV, ARTICLE 2, BY REPEALING SECTION 42.0211 AND ADDING SECTION 42.0215, ALL RELATING TO REGULATION OF MESSAGE BUSINESS AND MESSAGE TECHNICIANS.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter III, Article 3, of the San Diego Municipal Code be and the same is hereby amended by adding Division 35, Sections 33.3501 through 33.3523 to read as follows:

ARTICLE 3

DIVISION 35

MESSAGE BUSINESS AND MESSAGE TECHNICIANS

SEC. 33.3501 CITATION OF ORDINANCE

This division may be cited as the San Diego Message Business and Message Technician Regulations Ordinance.

SEC. 33.3502 PURPOSE AND INTENT

It is the purpose and intent of this division to provide for the orderly regulation of the business of massage and massage technicians in the City of San Diego by establishing certain minimum standards for the conduct of this type of business to protect the public health and welfare of the residents of the City of San Diego.

This ordinance is adopted pursuant to Chapter 6, Part I of Division I of Title 5 (Sections 51030 through 51034) of the California Government Code.

SEC. 33.3503 MESSAGE BUSINESS - POLICE REGULATED

The business of massage is hereby designated "Police Regulated."

SEC. 33.3504 DEFINITIONS

Whenever used in this division, the following words and phrases shall mean:

(a) "Massage" shall mean any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external parts of the human body with the hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances, or with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.

(b) "Massage Establishment" shall mean any establishment having a fixed place of business where any individual, firm, association, partnership, corporation, or combination of individuals, engages in, conducts, carries on or permits to be engaged in, conducted or carried on "massages" as defined in this division.

(c) "Off-Premises Massage" shall mean the activity of providing massage services at a location other than premises licensed as a massage establishment.

(d) "Massage Technician" shall mean any person who gives or administers to another person, for any form of consideration whatsoever, a "massage" as defined in this division.

(e) "License" shall mean the business license to operate a massage establishment or off-premises massage business required by this division.

(f) "Permit" shall mean the permit to engage in the activities of a massage technician required by this division.

SEC. 33.3505 MESSAGE ESTABLISHMENT - LICENSE REQUIRED

It shall be unlawful for any person, association, partnership or corporation to engage in, conduct, carry on, or to permit to be engaged in, conducted, or carried on, in or upon any premises within the City of San Diego, the operation of a "massage establishment" as herein defined, without a license issued pursuant to the provisions of this division for each and every such massage establishment. The license required hereby shall be in addition to any business tax license required by this Code.

PATRICIA M. DUTRA


1, hereby certify that San Diego Daily Transcript is a daily newspaper of general circulation within the provisions of the Government Code of the State of California, printed and published in the City of San Diego, County of San Diego, State of California; that I am the principal clerk of said newspaper; and the

ORDINANCE NO. 11969

is a true and correct copy of which this certificate is annexed and was published in said newspaper on

January 5, 1977

I certify under penalty of perjury that the foregoing is true and correct, at San Diego, California, on  
January 5, 1977



(Signature)

00460

82" @ 5.08 = 416.56

✓



...shall pay a nonrefundable fee of Two Hundred Twenty Five Dollars to accompany the submission of each application to defray the cost of investigation, inspection and enforcement of this division. Annual nonrefundable renewal fee shall be One Hundred Dollars.

(3) Each applicant for a license to operate a massage establishment shall furnish the following information to the Chief of Police:

- (1) The full true name and any other names used by the applicant.
- (2) The present address and telephone number of the applicant.
- (3) The proposed address of the massage establishment.
- (4) Each residence and business address of applicant for the three (3) years immediately preceding the date of the application and the inclusive dates of each such address.
- (5) Written proof that the applicant is at least eighteen (18) years of age.
- (6) Applicant's height, weight, color of eyes and hair.
- (7) Two photographs of applicant at least two inches by two inches taken within the six (6) months immediately preceding the date of application. One photograph shall be retained by the Chief of Police and one photograph shall be affixed to the license.
- (8) Applicant's business, occupation and employment history for the three (3) years immediately preceding the date of application.
- (9) The business license or permit history of the applicant, whether such applicant has ever had any license or permit issued by any agency or board, City, County, or State, revoked, suspended, or has had any professional or vocational license or permit revoked or suspended, and the reason therefor.
- (10) All criminal convictions, except traffic violations, and placement of the dates and places of such convictions.
- (11) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its Articles of Incorporation or Charter, together with the State and date of incorporation and names and residential addresses of each of the officers and directors, and of each stockholder holding more than five percent (5%) of the stock of the corporation. If the applicant is a partnership, the application shall set forth the names and residential addresses of each of the partners, including the names of the partners. If the applicant is a limited partnership, it shall present a copy of its certificate of limited partnership as filed with the County Clerk. If one or more of the partners is a corporation, the provisions of this section pertaining to corporate applicants shall apply. The applicant corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer. Such person shall complete and sign all the forms required of an individual applicant under this division, but only one application fee shall be charged.
- (12) The name and address of the owner and lessor of the property upon or in which the business is to be conducted, and a copy of the lease or rental agreement.
- (13) Such other identification and information as may be required in order to discover the truth of the matters herein specified as required to be set forth in the application.
- (14) The Chief of Police may require the applicant to furnish fingerprints when needed for the purpose of establishing identification.
- (15) The Chief of Police shall have a reasonable time, not to exceed sixty (60) days, in which to investigate the application and background of the applicant.
- (16) A license shall be issued within thirty (30) days of receipt of the application to any applicant who has furnished all of the information required by this section in the application for such license, unless:

  - (1) The applicant has not knowingly made a material false statement in the application for the license;
  - (2) The applicant, if an individual, or in the case of a partnership, which is a corporation or partnership, any of its officers, directors, holders of five percent (5%) or more of the corporation's stock, or partners, has not within five (5) years immediately preceding the date of the filing of the application been convicted by a court of competent jurisdiction of any of the following offenses: Section 264, 315, 316, 318, or subdivision (b) of Section 47 of the California Penal Code; an offense which requires registration as a sex offender with the Chief of Police under Section 260; any felony offense involving the sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057, or 11059 of the California Health and Safety Code; or any offense punishable in another state which, if committed in this state would have been punishable as one or more of the heretofore mentioned offenses.
  - (3) The massage establishment as proposed by the applicant would comply with all applicable laws including but not limited to health, zoning, fire and safety requirements and standards;
  - (4) The applicant is at least eighteen (18) years of age;
  - (5) The applicant has fulfilled the requirements of paragraphs (1) through (4) of Section 52, 5312.

**SECTION 52, 5312. OFF-PREMISES MASSAGE BUSINESS - LICENSE REQUIRED**

It shall be unlawful for any person, association, partnership, or corporation to engage in, conduct, carry on, or advertise, or to cause to be conducted, or carried on, any off-premises massage business.

SEC. 33.3500. MASSAGE TECHNICIAN - PERMIT REQUIRED

(a) Any person desiring to obtain a permit to act as a massage technician shall make an application to the Chief of Police or his designated representative. An annual nonrefundable fee of Two Hundred Twenty Dollars (\$220) shall accompany the submission of each application. In part, the cost of investigation, inspection and enforcement of this division. The annual nonrefundable renewal fee shall be One Hundred Dollars (\$100).

(b) Each applicant for a license to conduct an off-premises massage business shall furnish to the Chief of Police all the information required by Section 33.3500(b)(1) through 33.3500(b)(14) of this division.

(c) The Chief of Police shall have a reasonable time, not to exceed thirty (30) days, in which to investigate the application and background of the applicant.

(d) A license shall be issued within thirty (30) days of receipt of the application to any applicant who has furnished all of the information required by this division in the application for such license, provided:

- (1) The applicant has not knowingly made a material false statement in the application for the license.
- (2) The applicant, if an individual, or in the case of an applicant which is a corporation or partnership, any of its officers, directors, holders of five percent (5%) or more of the corporation's stock, or partners, has not within five (5) years immediately preceding the date of the filing of the application been convicted in a court of competent jurisdiction of any of the following offenses: Section 2600, 316, 318, 318, or subdivision (b) of Section 647 of the California Penal Code; an offense which requires registration as a sex offender with the Chief of Police under Penal Code Section 260; any felony offense involving the sale of a controlled substance specified in Section 11054, 11055, 11060, 11061, or 11066 of the California Health and Safety Code; or any offense in another state which, if committed in this state would have been punishable as one or more of the felonies mentioned in this section.
- (3) The applicant is at least eighteen (18) years of age.

(e) Off-premises massage operations shall be carried on only between the hours of 7 a.m. and 12 Midnight.

SEC. 33.3500. MASSAGE TECHNICIAN - PERMIT REQUIRED

It shall be unlawful for any person to engage in the business of massage or act as a massage technician without a permit issued pursuant to the provisions of this division.

SEC. 33.3510. MASSAGE TECHNICIAN PERMIT

(a) Any person desiring to obtain a permit to act as a massage technician shall make an application to the Chief of Police or his designated representative. An annual nonrefundable fee of Two Hundred Dollars (\$200) shall accompany the submission of each application. In part, the cost of investigation and examination as required by this division. The annual nonrefundable renewal fee shall be One Hundred Dollars (\$100).

(b) Each applicant for a permit to act as a massage technician shall furnish the following information to the Chief of Police:

- (1) The full true name and any other names used by the applicant.
- (2) The present address and telephone number of the applicant.
- (3) Each residence and business address of applicant for the three (3) years immediately preceding the date of the application and the inclusive dates of each such address.
- (4) Written proof that the applicant is at least eighteen (18) years of age.
- (5) Applicant's height, weight, color of eyes and hair.
- (6) Two photographs of applicant at least two inches by two inches taken within the six (6) months immediately preceding the date of application. One photograph shall be retained by the Chief of Police and one photograph shall be affixed to the permit.
- (7) Applicant's business, occupation and employment history for the three (3) years immediately preceding the date of application.
- (8) The business license or permit history of the applicant, whether such applicant has ever had any license or permit issued by any agency or board, City, County, or State, revoked, or suspended, or has had any professional or vocational license or permit revoked or suspended, and the reason therefor.
- (9) All criminal convictions, except traffic violations, and a statement of the dates and places of such convictions.
- (10) The massage establishment, if any, at which the applicant expects to be employed.
- (11) A certificate from a medical doctor, licensed to practice in the State of California, stating that the applicant has within thirty (30) days immediately preceding the date of application been examined and had no communicable disease on the date of the examination.
- (12) Proof of successful completion of an examination prepared and conducted by the Department of Public Health of the County of San Diego wherein the applicant is required to demonstrate a basic knowledge of anatomy, physiology, hygiene and manual and mechanical massage. The examination shall include both a practical demonstration and a written test. The written test shall test the competency and ability of the applicant to engage in the practice of massage. In lieu of passing such examination, applicant may furnish written proof of graduation from a school or institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a residence course study of not less than one hundred (100) hours to be given in not more than one (1) year.

(c) The Chief of Police shall have a reasonable time, not to exceed thirty (30) days, in which to investigate the application and background of the applicant.

(d) A permit shall be issued within thirty (30) days of receipt of the application to any applicant who has furnished all of the information required by this division in the application for such permit, provided:

- (1) The applicant has not knowingly made a material false statement in the application for the permit.
- (2) The applicant, if an individual, or in the case of an applicant which is a corporation or partnership, any of its officers, directors, holders of five percent (5%) or more of the corporation's stock, or partners, has not within five (5) years immediately preceding the date of the filing of the application been convicted in a court of competent jurisdiction of any of the following offenses: Section 2600, 316, 318, 318, or subdivision (b) of Section 647 of the California Penal Code; an offense which requires registration as a sex offender with the Chief of Police under Penal Code Section 260; any felony offense involving the sale of a controlled substance specified in Section 11054, 11055, 11060, 11061, or 11066 of the California Health and Safety Code; or any offense in another state which, if committed in this state would have been punishable as one or more of the felonies mentioned in this section.
- (3) The applicant is at least eighteen (18) years of age.

(e) Off-premises massage operations shall be carried on only between the hours of 7 a.m. and 12 Midnight.

...proceeding the date of the filing of the petition...  
(c) The applicant is at least eighteen (18) years of age;  
(d) The applicant has furnished an acceptable certificate in compliance with this section; and  
(e) The applicant has furnished proof of graduation from a school of massage as provided in this section or has furnished proof of successful completion of a competency examination administered by the San Diego Health Department as provided in this section. This requirement shall not apply to any person who had been employed as a massage technician on a regular basis for (3) years immediately preceding the date of July 2, 1971, provided satisfactory proof of such employment can be furnished.

(f) A permit to act as a massage technician does not authorize the operation of a massage establishment. Any person obtaining a permit to act as a massage technician who desires to operate a massage establishment must separately apply for a license therefor. A person who applies for a license to operate a massage establishment shall also apply to act as a massage technician within said establishment and pay the fee required by Section 33,3506 of this division shall be required to pay the fee required by this section.

**SEC. 33,3511 EXEMPTIONS**  
This division shall not apply to the following classes of individuals and no permit shall be required of such persons while engaged in the performance of the duties of their respective professions:

- (a) Physicians, surgeons, chiropractors, osteopaths, physical therapists who are duly licensed to practice their respective professions in the State of California.
- (b) Nurses who are registered as such under the laws of the State of California.
- (c) Barber and beauticians who are duly licensed under the laws of the State of California.
- (d) Trainers of any amateur, semiprofessional or professional athletic or athletic team.

**SEC. 33,3512 OPERATIVE DATE - MASSAGE TECHNICIANS**

All persons operating or employed as massage technicians at the time this division becomes effective shall obtain a Massage Technician Permit within sixty (60) days of the effective date of this division.

**SEC. 33,3513 MASSAGE ESTABLISHMENTS - OPERATING REQUIREMENTS**

No person, association, partnership, or corporation shall conduct or carry on, or permit to be engaged in, conducted or operated on the operation of a massage establishment unless each and every of the following requirements are met:

- (a) Each person employed or acting as a Massage Technician shall have a valid permit issued pursuant to the provisions of this division; and it shall be unlawful for any owner, operator, responsible managing employee, manager or permittee in charge of, or in control of a massage establishment to employ or permit any person to act as a Massage Technician who is not in possession of a valid unrevoked Massage Technician Permit.
- (b) The possession of a valid massage establishment business license does not authorize the possession to perform, or in which a Massage Technician Permit is required.
- (c) Massage operations shall be carried on, and the premises shall be open, only between the hours of 7 a.m. and 12 midnight.
- (d) A list of services available and the cost of such services shall be posted in an open and conspicuous public place on the premises. The services shall be described in readily understandable language. No owner, operator, responsible managing employee, manager, or permittee in charge of, or in control of a massage establishment, shall permit, and no massage technician shall offer to perform, any services other than those posted.
- (e) The massage establishment business license, and a copy of the permit of each and every massage technician employed or working in the establishment, shall be displayed in an open and conspicuous public place on the premises.
- (f) A minimum of one (1) tub or shower and one (1) toilet and wash-basin shall be provided for the patrons in every massage establishment; however, if male and female patrons are to be served simultaneously at said establishment, separate toilet facilities shall be provided for male and female patrons. Hot and cold running water under pressure shall be provided to all wash basins, bathtubs, showers, and similar equipment. Each wash basin shall be provided with soap or detergent and sanitary towels placed in permanently installed dispensers. A trash receptacle shall be provided in each toilet room.
- (g) Clean and sanitary towels, sheets and linens shall be provided for each patron receiving massage services. No cosmetics of powder or liners shall be permitted and reuse is prohibited unless they have been first laundered. Heavy white paper may be substituted for sheets provided that such paper is used once for each person, then discarded into a sanitary receptacle.
- (h) Disinfecting agents and sterilizing equipment sufficient to assure the cleanliness and safe condition thereof shall be provided for the establishment.

...of this division shall...  
...with all of the provisions of this division...  
...of the effective date of this division. Any person...  
...or corporation coming within this section shall...  
...paragraph (f) of Section 333613 no later than one year after...  
...the date of this division.

**333615. NAME OF BUSINESS.**  
...person licensed to do business as herein provided shall...  
...any name or conduct his business under any designation...  
...in his license.

**333616. CHANGE OF LOCATION.**  
...change of location of a licensed massage establishment shall be...  
...by the Chief of Police provided all applicable provisions...  
...there are complied with and a non-refundable change of location...  
...license fee of one hundred dollars (\$100) has been paid to the Chief of Police, the...  
...Department and the Department of Building Inspection...  
...of the new location and have advised the Chief of Police...  
...with the requirements of this division.

**333617. SALE OR TRANSFER.**  
...sale or transfer of any interest...  
...in any licensed massage business, any...  
...shall be required. A new application...  
...for the person, firm, or entity desiring to own or...  
...establishment or off-premises massage business...  
...Dollars (\$25) shall be payable for each such application...  
...or other transfer of any interest in an existing...  
...of off-premises massage business. The provisions...  
...of this division shall apply to any person, firm...  
...or corporation applying for a massage establish-  
...ment on premises previously used as such establishment...  
...with sale or transfer of any interest in any existing...  
...or any application for an extension of...  
...or other place of business of the massage establishment...  
...inspection and shall require compliance with Section 333613...  
...Division.

**333618. INSPECTION.**  
...Police Department and Health Department shall...  
...and periodic inspections of the foyer, hallways, restrooms...  
...intended for use in common by customers...  
...of each and every massage establishment...  
...during hours of the business operation for the...  
...there is compliance with the provisions...  
...of the laws of the State of California.

**333619. SUSPENSION OR REVOCATION OF LICENSE OR PERMIT.**  
...in the event that any person holding a license or permit...  
...in this division shall violate or cause or permit to be violated...  
...the provisions of this division, or any provisions of any other...  
...law relating to or regulating said business or occupation...  
...or carry on such business or occupation in an...  
...or is convicted of any of these crimes contained in...  
...the Chief of Police may, in addition to other...  
...by ordinance, suspend or revoke the license or permit...  
...or permittee has been given the opportunity for a hearing...  
...in Section 333620.

**333620. HEARING.**  
...person who has been denied a license or permit, or...  
...license or permit issued pursuant to this division...  
...or revoked, may request a hearing conducted by the...  
...The request for a hearing must be in writing...  
...made within ten (10) calendar days from the date of...  
...suspending or revoking the license or permit...  
...with the request for a hearing, the City Manager...  
...shall call a hearing and shall set forth in writing...  
...license or permittee by means of registered mail...  
...head delivery, notice that within a period of not less...  
...than fourteen (14) days from the date of the...  
...hearing shall be conducted to determine the...  
...facts which constitute grounds for the denial, suspension...  
...of a license or permit. The notification shall include...  
...the date and place of hearing. The hearing shall be conducted...  
...by an officer appointed by the City Manager. The...  
...or permittee may have the assistance of counsel or...  
...and shall have the right to present evidence...  
...that the applicant, licensee or permittee, or counsel...  
...applicant, licensee or permittee, fails to appear at the...  
...of the existence of facts which constitute grounds...  
...for suspension or revocation of the license or permit...  
...shall be...  
...A copy of the decision of the hearing officer...  
...of fact and the reasons for the decision shall be...  
...the applicant or licensee. The hearing officer shall...  
...of his right to appeal.

...the City Council shall either grant or deny the application of the City Council shall be final.

**SECTION 3. CONSTITUTIONALITY.**

If any provision, subsection, sentence, clause or phrase of this Ordinance is held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and its subsections, sentences, clauses or phrases, if it were known that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 2, Title Chapter IV, Article 2, of the San Diego Municipal Code, as amended by repealing Section 42.0211 and adding the following:

**SECTION 42.0211. MASSAGE BUSINESSES AND TECHNICIANS - REGULATED**

Health regulated businesses shall include massage businesses and massage technicians as defined in Section 33.3504 of this Code.

Section 3. This ordinance shall take effect and be in force on the day hereof and after its passage.

Enacted on November 24, 1978.

Approved and adopted by the Council of The City of San Diego on November 21, 1978.

**AUTHENTICATED BY:**  
STEPHEN WILSON,  
Mayor of The City of San Diego, California.  
EDWARD NIELSEN,  
City Clerk of The City of San Diego, California.