

ORDINANCE NO. 12661
(New Series)

MAY 22 1979

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 3, DIVISION 35, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 33.3504 BY ADDING SUBSECTION (g); AMENDING SECTION 33.3506(d) BY AMENDING SUBSECTION (5) AND ADDING SUBSECTION (6); AMENDING SECTION 33.3508(d) BY ADDING SUBSECTION 4; AMENDING SECTION 33.3510(d) BY ADDING SUBSECTION (6); AMENDING SECTION 33.3513 BY ADDING SUBSECTIONS (q) THROUGH (t); ADDING SECTION 33.3513.1, SUBSECTIONS (a) THROUGH (h), AND ADDING SECTION 33.3513.2, SUBSECTIONS (a) THROUGH (c), ALL RELATING TO THE 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, Division 35, of the San Diego Municipal Code be and the same is hereby amended by adding Section 33.3504(g), amending Section 33.3506(d)(5) and adding subsection (6), adding Sections 33.3508(d)(4), 33.3510(d)(6), 33.3513(q) through (t), 33.3513.1(a) through (h) and 33.3513.2(a) through (c) to read as follows:

SEC. 33.3504 DEFINITIONS

(a) through (f)--Remain the same.

(g) "Specified Anatomical Areas" shall mean: pubic region, human genitals, perineum, anal region and the area of the female breast that includes the areola and the nipple.

SEC. 33.3506 MASSAGE ESTABLISHMENT LICENSE

(a) through (d)(4)--Remain the same.

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

(d)(6) The applicant has not had a massage technician, massage establishment, escort service, nude entertainment, rap parlor, nude photo studio or similar type of license or permit suspended for one (1) year or more, or revoked for good cause within three (3) years immediately preceding the date of the filing of the application, unless the applicant can show a material change in circumstances or mitigating circumstances exist since the revocation or suspension.

(e) Remains the same.

SEC. 33.3508 OFF-PREMISES MASSAGE BUSINESS LICENSE

(a) through (d)(3)--Remain the same.

(d)(4) The applicant has not had a massage technician, massage establishment, off-premises massage establishment, nude entertainment, escort service, rap parlor, nude photo studio or similar type of license or permit suspended for one (1) year or more, or revoked for good cause within three (3) years immediately preceding the date of the filing of the application, unless the applicant can show a material change in circumstances or mitigating circumstances exist since the revocation or suspension.

(e) Remains the same.

SEC. 33.3510 MASSAGE TECHNICIAN PERMIT

(a) through (d)(5)--Remain the same.

(d)(6) The applicant has not had a massage technician, massage establishment, off-premises massage estab-

lishment, nude entertainment, escort service, rap parlor, nude photo studio or similar type of license or permit suspended for one (1) year or more, or revoked for good cause within three (3) years immediately preceding the date of the filing of the application, unless the applicant can show a material change in circumstances or mitigating circumstances exist since the revocation or suspension.

(e) Remains the same.

SEC. 33.3513 MASSAGE ESTABLISHMENTS--OPERATING REQUIREMENTS

(a) through (p)--Remain the same.

(q) Each establishment shall provide to all patrons clean, sanitary and opaque coverings capable of covering the patron's specified anatomical areas. No common use of such covering shall be permitted, and reuse is prohibited unless having been adequately cleaned. In addition, no owner, operator, responsible managing employee, manager, or permittee in charge of or in control of a massage establishment shall permit a massage to be given unless the patron is covered by the covering provided by the establishment.

(r) With the exception of bathrooms, showers, dressing rooms, no owner, operator, responsible managing employee, manager, or permittee in charge of or in control of any massage establishment shall permit any person in any area within the massage establishment which is used by the patrons or which can be viewed by

patrons from such an area, unless the person's specified anatomical areas are fully covered. In addition, no owner, operator, responsible managing employees, manager or permittee in charge of or in control of a massage establishment shall permit any person to be in any room with another person unless all persons' specified anatomical areas are fully covered.

(s) No owner, operator, responsible managing employee, manager or permittee in charge of or in control of a massage establishment shall permit any massage technician to be on the premises of a massage establishment during its hours of operation while performing or available to perform any task or service associated with the operation of a massage business, unless the massage technician is fully covered from a point not to exceed four (4) inches above the center of the kneecap to the base of the neck excluding the arms, with the following exception: shorts may be worn so long as they extend down the leg a minimum of three (3) inches from the crotch and the body above that point is fully covered to the base of the neck, excluding the arms. The covering, which includes trousers, pants or shorts, will be of an opaque material and will be maintained in a clean and sanitary condition.

(t) No owner, operator, responsible managing employee, manager or permittee in charge of or in control of a massage establishment shall during the course of any service or task associated with the operation of a massage operation permit any person to massage, or intentionally touch the specified anatomical areas of another person.

SEC. 33.3513.1 OFF-PREMISES MASSAGE BUSINESS--
OPERATING REQUIREMENTS

(a) No owner, operator, responsible managing employee, manager, or permittee in charge of or in control of any off-premises massage business shall knowingly permit a massage technician to give a massage or to be in any room with a patron unless the patron's specified anatomical areas are fully covered.

(b) No owner, operator, responsible managing employee, manager, or permittee in charge of or in control of any off-premises massage business shall knowingly permit any massage technician who is employed by or associated with the off-premises massage business to perform any service or task while in the presence of any patron of an off-premises massage business, unless the massage technician is fully covered from a point not to exceed four (4) inches above the center of the kneecap to the base of the neck, excluding the arms, with the following exception: shorts may be worn so long as they extend down the leg a minimum of three (3) inches from the crotch and the body above that point is fully covered to the base of the neck, excluding the arms. The covering, which includes trousers, pants or shorts, will be of any opaque material and will be maintained in a clean and sanitary condition.

(c) No owner, operator, responsible managing employee, manager or permittee in charge of or in control of an off-premises massage business shall knowingly allow any employee or massage technician associated with the off-premises massage business to massage or intentionally touch the specified anatomical areas of another person.

(d) 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 an off-premises massage business to employ or permit any person to act as a massage technician who is not in possession of a valid massage technician permit.

(e) The possession of a valid off-premises business license does not authorize the possessor to perform work for which a massage technician permit is required.

(f) The off-premises massage business license and a copy of the permit of each and every massage technician employed or working for the off-premises massage business will be displayed in an open and conspicuous place on the licensed business location.

(g) No common use of towels or linens shall be permitted and reuse is prohibited unless they have been first relaundered.

(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.

SEC. 33.3513.2 MESSAGE TECHNICIAN--OPERATING
REQUIREMENTS

(a) No massage technician, while performing any task or service associated with the massage business,

shall be present in any room with another person unless the person's specified anatomical areas are fully covered.

(b) No massage technician shall be on the premises of a massage establishment during its hours of operation while performing or available to perform any task or service associated with the operation of a massage business, unless the massage technician is fully covered from a point not to exceed four (4) inches above the center of the kneecap to the base of the neck, excluding the arms, with the following exception: shorts may be worn so long as they extend down the leg a minimum of three (3) inches from the crotch and the body above that point is fully covered to the base of the neck, excluding the arms. In addition, no massage technician shall perform any task or service while in the presence of any patron of an off-premises massage business unless the massage technician is fully covered from a point not to exceed four (4) inches above the center of the kneecap to the base of the neck, excluding the arms, with the following exception: shorts may be worn so long as they extend down the leg a minimum of three (3) inches from the crotch and the body above that point is fully covered to the base of the neck, excluding the arms. For purposes of this subsection, the covering, which includes trousers, pants or shorts, will be of an opaque material and will be maintained in a clean and sanitary condition.

(c) No massage technician, while performing any task

for service associated with the business of massage, shall
massage or intentionally touch the specified anatomical
areas of another person.

Section 2. 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


David W. Ryan
Deputy City Attorney

DWR:rc:503.8
~~12/27/78~~ REVISED 4/23/79
Or.Dept.: Police

SEC. 33.3504 DEFINITIONS

(a) through (f)--Remain the same.

(g) "Specified Anatomical Areas" shall mean:
pubic region, human genitals, perineum, anal region
and the area of the female breast that includes the
areola and the nipple.

SEC. 33.3506 MASSAGE ESTABLISHMENT LICENSE

(a) through (d)(4)--Remain the same.

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

(d)(6) The applicant has not had a massage technician, massage establishment, escort service, nude entertainment, rap parlor, nude photo studio or similar type of license or permit suspended for one (1) year or more, or revoked for good cause within three (3) years immediately preceding the date of the filing of the application, unless the applicant can show a material change in circumstances or mitigating circumstances exist since the revocation or suspension.

(e) Remains the same.

SEC. 33.3508 OFF-PREMISES MASSAGE BUSINESS LICENSE

(a) through (d)(3)--Remain the same.

(d)(4) The applicant has not had a massage technician, massage establishment, off-premises massage estab-

lishment, nude entertainment, escort service, rap parlor, nude photo studio or similar type of license or permit suspended for one (1) year or more, or revoked for good cause within three (3) years immediately preceding the date of the filing of the application, unless the applicant can show a material change in circumstances or mitigating circumstances exist since the revocation or suspension.

(e) Remains the same.

SEC. 33.3510 MESSAGE TECHNICIAN PERMIT

(a) through (d)(5)--Remain the same.

(d)(6) The applicant has not had a massage technician, massage establishment, off-premises massage establishment, nude entertainment, escort service, rap parlor, nude photo studio or similar type of license or permit suspended for one (1) year or more, or revoked for good cause within three (3) years immediately preceding the date of the filing of the application, unless the applicant can show a material change in circumstances or mitigating circumstances exist since the revocation or suspension.

(e) Remains the same.

SEC. 33.3513 MESSAGE ESTABLISHMENTS--OPERATING REQUIREMENTS

(a) through (p)--Remain the same.

(q) Each establishment shall provide to all patrons clean, sanitary and opaque coverings capable

of covering the patron's specified anatomical areas.
No common use of such covering shall be permitted, and
reuse is prohibited unless having been adequately
cleaned. In addition, no owner, operator, responsible
managing employee, manager, or permittee in charge of
or in control of a massage establishment shall permit
a massage to be given unless the patron is covered by
the covering provided by the establishment.

(r) With the exception of bathrooms, showers,
dressing rooms, no owner, operator, responsible managing
employee, manager, or permittee in charge of or in
control of any massage establishment shall permit any
person in any area within the massage establishment
which is used by the patrons or which can be viewed by
patrons from such an area, unless the person's specified
anatomical areas are fully covered. In addition, no owner,
operator, responsible managing employees, manager or per-
mittee in charge of or in control of a massage establish-
ment shall permit any person to be in any room with another
person unless all persons' specified anatomical areas are
fully covered.

(s) No owner, operator, responsible managing em-
ployee, manager or permittee in charge of or in control
of a massage establishment shall permit any massage tech-
nician to be on the premises of a massage establishment
during its hours of operation while performing or avail-

able to perform any task or service associated with the operation of a massage business, unless the massage technician is fully covered from a point not to exceed four (4) inches above the center of the kneecap to the base of the neck excluding the arms, with the following exception: shorts may be worn so long as they extend down the leg a minimum of three (3) inches from the crotch and the body above that point is fully covered to the base of the neck, excluding the arms. The covering, which includes trousers, pants or shorts, will be of an opaque material and will be maintained in a clean and sanitary condition.

(t) No owner, operator, responsible managing employee, manager or permittee in charge of or in control of a massage establishment shall during the course of any service or task associated with the operation of a massage operation permit any person to massage, or intentionally touch the specified anatomical areas of another person.

SEC. 33.3513.1 OFF-PREMISES MESSAGE BUSINESS--
OPERATING REQUIREMENTS

(a) No owner, operator, responsible managing employee, manager, or permittee in charge of or in control of any off-premises massage business shall knowingly permit a massage technician to give a massage or to be in any room with a patron unless the patron's specified anatomical areas are fully covered.

(b) No owner, operator, responsible managing employee, manager, or permittee in charge of or in control of any off-premises massage business shall knowingly

permit any massage technician who is employed by or associated with the off-premises massage business to perform any service or task while in the presence of any patron of an off-premises massage business, unless the massage technician is fully covered from a point not to exceed four (4) inches above the center of the kneecap to the base of the neck, excluding the arms, with the following exception: shorts may be worn so long as they extend down the leg a minimum of three (3) inches from the crotch and the body above that point is fully covered to the base of the neck, excluding the arms. The covering, which includes trousers, pants or shorts, will be of any opaque material and will be maintained in a clean and sanitary condition.

(c) No owner, operator, responsible managing employee, manager or permittee in charge of or in control of an off-premises massage business shall knowingly allow any employee or massage technician associated with the off-premises massage business to massage or intentionally touch the specified anatomical areas of another person.

(d) 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 an off-premises massage business to employ or permit any person to act as a massage technician who is not in possession of a valid massage technician permit.

(e) The possession of a valid off-premises business license does not authorize the possessor to perform work for which a massage technician permit is required.

(f) The off-premises massage business license and a copy of the permit of each and every massage technician employed or working for the off-premises massage business will be displayed in an open and conspicuous place on the licensed business location.

(g) No common use of towels or linens shall be permitted and reuse is prohibited unless they have been first relaundered.

(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.

SEC. 33.3513.2 MASSAGE TECHNICIAN--OPERATING REQUIREMENTS

(a) No massage technician, while performing any task or service associated with the massage business, shall be present in any room with another person unless the person's specified anatomical areas are fully covered.

(b) No massage technician shall be on the premises of a massage establishment during its hours of operation while performing or available to perform any task or service associated with the operation of a massage business, unless the massage technician is fully covered from a point not to exceed four (4) inches above the center of the kneecap to the base of the neck, excluding the arms, with the following

exception: shorts may be worn so long as they extend down the leg a minimum of three (3) inches from the crotch and the body above that point is fully covered to the base of the neck, excluding the arms. In addition, no massage technician shall perform any task or service while in the presence of any patron of an off-premises massage business unless the massage technician is fully covered from a point not to exceed four (4) inches above the center of the kneecap to the base of the neck, excluding the arms, with the following exception: shorts may be worn so long as they extend down the leg a minimum of three (3) inches from the crotch and the body above that point is fully covered to the base of the neck, excluding the arms. For purposes of this subsection, the covering, which includes trousers, pants or shorts, will be of an opaque material and will be maintained in a clean and sanitary condition.

(c) No massage technician, while performing any task for service associated with the business of massage, shall massage or intentionally touch the specified anatomical areas of another person.

MAY 22 1979

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

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Lowery	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fred Schnaubelt	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Gade	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Larry Stirling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lucy Killea	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By Barbara Berridge, 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

MAY 7 1979

MAY 22 1979

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.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By Barbara Berridge, Deputy.

I HEREBY CERTIFY that the above and foregoing is a full, true and correct

copy of ORDINANCE NO. _____
(NEW SERIES) of The City of San Diego,
California, passed and adopted by the

Council of said City MAY 22 1979

CHARLES G. ABDELNOUR, City Clerk

By Barbara Berridge
Deputy

Office of the City Clerk, San Diego, California

Ordinance
Number

12661

Adopted

MAY 22 1979

ATTORNEYS

City of San Diego
12th floor, City Admin. Bldg.
202 C St.
San Diego, Ca 92101

Attn: Barbara Berridge

RECEIVED
CITY CLERK
JUN 13 AM 9 27
SAN DIEGO, CALIF.

CERTIFICATE OF PUBLICATION

No. _____

IN THE MATTER OF

AMENDING CHAPTER III, ARTICLE 3, DIVISION 35

I Patricia M. Spaulding, a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NO. 12661

(New Series)

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 3, DIVISION 35, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 33.2804 BY ADDING SUBSECTION (g); AMENDING SECTION 33.2806(a) BY AMENDING SUBSECTION (3) AND ADDING SUBSECTION (4); AMENDING SECTION 33.2806(d) BY ADDING SUBSECTION 4; AMENDING SECTION 33.2810(a) BY ADDING SUBSECTION (4); AMENDING SECTION 33.2811 BY ADDING SUBSECTIONS (g) THROUGH (i); ADDING SECTION 33.2813.1, SUBSECTIONS (a) THROUGH (d), AND ADDING SECTION 33.2813.2, SUBSECTIONS (a) THROUGH (c), ALL RELATING TO THE REGULATION OF MASSAGE BUSINESS AND MASSAGE TECHNICIANS.

The regulations for operation of the business of massage establishments and of massage technicians are amended to provide for certain minimum standards to protect the health and welfare of the public by requiring the wearing of a covering during the course of a massage. Other regulations governing fitness for entry to such a business, restrictions on what parts of the body cannot be massaged and requirements for laundered linen are also provided.

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 12th Floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Introduced on May 7, 1979.

Passed and adopted by the Council of The City of San Diego on May 22, 1979.

AUTHENTICATED BY:

PETE WILSON,

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR,

City Clerk of The City of San Diego, California.

SEAL

Published June 8, 1979

ORDINANCE NO. 12661

(New Series)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to-wit:

June 5, 1979

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 7th day of June, 1979.

Patricia M. Spaulding

(Signature)

6" - 736.42

