



# *CITY COUNCIL AGENDA REPORT*

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MEETING DATE: May 2, 2006

ITEM NUMBER:

**SUBJECT:** MESSAGE ESTABLISHMENTS AND PRACTITIONERS

**DATE:** APRIL 21, 2006

**FROM:** KIMBERLY HALL BARLOW, CITY ATTORNEY

**PRESENTATION BY:** KIMBERLY HALL BARLOW, CITY ATTORNEY

**FOR FURTHER INFORMATION CONTACT:** KIMBERLY HALL BARLOW, 714-754-5399

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## **RECOMMENDATION:**

Introduce and give first reading to the attached Ordinance Amending Article 22 of Title 9 of the Costa Mesa Municipal Code, relating to Massage Establishments and Practitioners.

## **BACKGROUND:**

The City Council, in 2001, adopted procedures regulating massage establishments and practitioners by imposing reasonable standards and conditions on such establishments and practitioners. Recent activities involving enforcement of the ordinance have led to our office reviewing the language in an effort to make the ordinance easier to enforce.

## **ANALYSIS:**

Costa Mesa's ordinance is similar to that of the city of Fullerton's, which is considered a model ordinance. However, a few changes need to be made to improve the effectiveness of the regulations. Section 9-330, subsection (m), requires that all massage practitioners wear employer issued identification cards as well as identification cards issued by the Police Department. The employer issued cards are an unnecessary duplication. Therefore, the requirement can be deleted without negatively affecting this regulation. To further clarify specified operating conditions, the requirement that they be in writing has been added.

In sections 9-329(a)(2)e and 9-341(a)(3) the commission of a violation of law in the city has been added as grounds for denial, suspension or revocation of a permit.

To further clarify specified operating conditions in section 9-331, the requirement that they be in writing has been added. The last sentence of subsection (b) is awkwardly stated and should be changed so that it may be more easily read and understood.

Section 9-327(e)(10) pertaining to the application for a permit to operate and/or manage a massage establishment and section 9-339(c)(4), pertaining to the application for a massage practitioner permit, require the disclosure of all criminal convictions within the last ten years. However, sections 9-329(a)(2) and 9-341(a)(2) allow the Chief of Police to deny a permit application only for convictions or other proof of commission of certain specific offenses. The requirement to disclose all criminal convictions, when only

specified criminal convictions may be used to deny an application is overly broad. Therefore, it is recommended that these subsections regarding disclosure be changed to conform with the requirements of sections 9-329(a)(2) and 9-341(a)(2).

Sections 9-352(a)(1) and (c)(1), have been changed so that a permit may be suspended, not renewed or revoked based upon a violation of any of the offenses specified in sections 9-329(a)(2) and 9-341(a)(2). A conviction of the specified offenses would not be required, so long as adequate proof is offered to convince the decision maker by a preponderance of the evidence that the violation occurred.

Denial and appeal are not dealt with in section 9-352. Therefore, the title has been changed to conform with the provisions contained therein.

**ALTERNATIVES CONSIDERED:**

City Council may choose to either leave the Municipal Code as is or adopt the proposed changes in the attached ordinance.

**FISCAL REVIEW:**

None required.

**LEGAL REVIEW:**

The City Attorney's office has prepared the attached ordinance for your consideration.

**CONCLUSION:**

The proposed amendments to the Costa Mesa Municipal Code are intended to benefit the regulation of the massage industry by more precisely describing the affected Municipal Code sections. The City Attorney recommends that City Council give first reading to the Ordinance amendment.

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ALLAN L. ROEDER  
City Manager

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KIMBERLY HALL BARLOW  
City Attorney

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ATTACHMENTS: 1 [Draft Ordinance Amendment](#)  
2 [Statutes](#)