

ORDINANCE NO. 06-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA AMENDING ARTICLE 22 OF TITLE 9 OF THE COSTA MESA MUNICIPAL CODE RELATING TO MASSAGE ESTABLISHMENTS AND PRACTITIONERS

WHEREAS, the Costa Mesa ordinance pertaining to massage establishments and practitioners meets all of the qualifications for a modern ordinance; and

WHEREAS, some of the provisions need to be changed in order to conform with the requirements of other provisions; and

WHEREAS, other provisions need to be amended in order to correct duplication and syntax errors.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Article 22 of Title 9 of the Costa Mesa Municipal Code is hereby amended to read as follows:

Section 2. Section 9-327(e)(10) is hereby amended as follows:

Sec. 9-327. Operator's permit--application.

(e) The application for a massage practitioner permit shall contain or be accompanied by the following information:

- (10) ~~All criminal convictions~~, A conviction of any of the following, including pleas of nolo contendere, within the last ten (10) years, including those dismissed or expunged pursuant to Penal Code Section 1203.4, ~~but excluding minor traffic violations~~, and the date and place of each such conviction and reason therefore;
- a. A violation of any provision of law pursuant to which a person is required to register under the provisions of Penal Code Section 290, or conduct in violation of California Penal Code Sections 266h, 266i, 314, 315, 316, 318, subsections (a), (b) or (d) of Penal Code Section 647, or convicted of an attempt to commit or conspiracy to commit any of the above mentioned offenses, or any other crime involving dishonesty, fraud, deceit, moral turpitude or an act of violence or when the prosecution accepted a plea of guilty or nolo contendere to a charge of a violation of California Penal Code Sections 415, 602 or any lesser included or related offense, in satisfaction of, or as a substitute for, any of the previously listed crimes, or any crime

committed while engaged in the ownership of a massage establishment or the practice of massage.

- b. A violation of Health and Safety Code Section 11550 or any offense involving the illegal sale, distribution or possession of a controlled substance specified in Health and Safety Code Sections 11054, 11055, 11056, 11057 or 11058, or
- c. Any offense in any other jurisdiction that is the equivalent of any of the above-mentioned offenses.

Section 3. Section 9-329 (a)(2)e is hereby amended as follows:

Sec. 9-329. Operator's permit-Issuance or denial.

- e. Committed an act in another jurisdiction which, if committed in this city or state, would have been a violation of law and, which, if done by a permittee under this chapter, would be grounds for denial, suspension or revocation of the permit.

Section 4. Section 9-330(m) is hereby amended as follows:

Sec. 9-330. Operating requirements--general conditions.

All owners and operators shall comply with the following general conditions and any other conditions specified in writing by the chief of police:

(m) The operator and/or manager shall ensure that all massage practitioners are wearing their police issued identification cards ~~and that all employees are wearing their employer issued identification cards~~ at all times when working in the massage establishment. Such identification shall be provided to a city official upon demand. The identification card shall be worn on outer clothing with the photo side facing out. If a massage practitioner changes his or her business address, he or she shall, prior to such change, obtain from the chief of police a new photo identification card and advise the police department, in writing, of the new business address.

Section 5. Section 9-331(b) is hereby amended as follows:

Sec. 9-331. Same--Facilities.

All owners, operators and managers shall comply with the following operating requirement for facilities and any other conditions specified in writing by the chief of police:

(b) *Signs.* Any signs shall be in conformance with the current ordinances of the city. Each operator and/or manager shall post and maintain, adjacent to the main entrance and the front of the business, a readable sign identifying the premises as a massage establishment. ~~A sign, nor the front of the business, shall not be illuminated by strobe or flashing lights.~~ Neither the sign nor the front of the business shall be illuminated by strobe or flashing lights.

Section 6. Section 9-339(c)(4) is hereby amended as follows:

Sec. 9-339. Same--Permit application.

(c) The application for a massage practitioner permit shall contain or be accompanied by the following information:

- (4) ~~All criminal convictions,~~ A conviction of any of the following, including pleas of nolo contendere, within the last ten (10) years, including those dismissed or expunged pursuant to Penal Code Section 1203.4, ~~but excluding minor traffic violations,~~ and the date and place of each such conviction and reason therefore;
- a. A violation of any provision of law pursuant to which a person is required to register under the provisions of Penal Code Section 290, or conduct in violation of California Penal Code Sections 266h, 266i, 314, 315, 316, 318, subsections (a), (b) or (d) of Penal Code Section 647, or convicted of an attempt to commit or conspiracy to commit any of the above mentioned offenses, or any other crime involving dishonesty, fraud, deceit, moral turpitude or an act of violence or when the prosecution accepted a plea of guilty or nolo contendere to a charge of a violation of California Penal Code Sections 415, 602 or any lesser included or related offense, in satisfaction of, or as a substitute for, any of the previously listed crimes, or any crime committed while engaged in the ownership of a massage establishment or the practice of massage.
- b. A violation of Health and Safety Code Section 11550 or any offense involving the illegal sale, distribution or possession of a controlled substance specified in Health and Safety Code Sections 11054, 11055, 11056, 11057 or 11058, or
- c. Any offense in any other jurisdiction that is the equivalent of any of the above-mentioned offenses.

Section 7. Section 9-341(a)(3) is hereby amended as follows:

Section 9-341. Same-Issuance and denial.

- (3) That the applicant has committed an act in another jurisdiction that, if committed in this city or state, would have been a violation of law and, which, if done by a permittee under this chapter, would be grounds for denial, suspension or revocation of the permit.

Section 8. Subsections 9-352(a)(1) and (c)(1) are hereby amended as follows:

Sec. 9-352. Suspension, non-renewal and revocation, ~~denial and appeal.~~

(a) *Violation and noncompliance by operator or manager.* Failure of a permittee to comply with any requirement imposed by this chapter or any other conditions imposed pursuant to the permit shall be grounds for non-renewal, suspension or revocation of the permit.

- (1) A violation of any of the provisions of this chapter, or if an operator or manager has violated or has been convicted of violating any law specified in section 9-329(a)(2).

~~(c)~~ (b) *Suspension, non-renewal or revocation of massage practitioner or out-call massage permit.* The chief of police may suspend, revoke or refuse to renew a massage practitioner or out-call massage permit if any of the following conditions exists:

- (1) A violation of any of the provisions of this chapter, any provisions or conditions of the permit, or if a massage practitioner has violated or has been convicted of violating any law specified in section 9-341(a)(2).

Section 9. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 10. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Costa Mesa hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 11. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

PASSED AND ADOPTED this ____ day of _____, 2006.

Mayor

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk of the City of Costa Mesa

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 06-__ was introduced and considered section by section at a regular meeting of said City Council held on the ____th day of _____, 2006, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the ____ day of _____, 2006, by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2006.

City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa