

ORDINANCE NO. 84-14

AN ORDINANCE OF THE CITY OF RIDGECREST
ESTABLISHING REGULATIONS FOR THE OPERATION
OF MASSAGE STUDIOS.

WHEREAS it is important to the public health, safety and welfare to regulate the establishment of massage studios and to set up standards for personnel employed therein:

THE CITY COUNCIL OF THE CITY OF RIDGECREST DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 111 of the Municipal Code of 1980 is amended to add Article 15.

SECTION 3-15.00 PURPOSE AND INTENT. It is the purpose and intent of the City Council that the operation of Massage Establishments and Massage Technicians as defined in this Article should be regulated so as to further the public interest, safety, and welfare by providing minimum building, sanitation, and health standards for such establishments and providing minimum qualifications for massage technicians.

SECTION 3-15.10 DEFINITIONS. For the purpose of this Article, the following words and phrases shall mean or include:

- (a) "Massage". The method of treating the superficial parts of the human body for medical or hygienic purposes by rubbing, pressing, stroking, kneading, tapping, pounding, vibrating, or stimulating with the hands or any instrument.
- (b) "Massage Establishment". Any establishment wherein a principal function is such that massage is given, engaged in or carried on, or permitted to be given, engaged in, or carried on.
- (c) "Massage Technician". Any person who administers to another person, for any form of consideration, a bath, massage, manipulation of the body, electric vibration, magnetic stimulation, or similar procedure.
- (d) "Approved School". Any school or institution of learning which has received final approval from the Bureau of School Approval, State Department of Education and which has for its purpose the teaching of a course consisting of two hundred (200) hours or more of the theory, ethics and practice, methods, profession or work of massage technicians, and which school or institution of learning requires a resident massage technician be furnished with a diploma or certificate of graduation from such school or institution of learning showing successful completion of such course of study already approved by the California State Department of Education.

Temporary, conditional or provisional approval by said Bureau will not qualify a school or institution of learning as acceptable under this ordinance.

Schools offering correspondence courses not requiring actual attendance at class, or courses of a massage technician not approved by the California State Department of Education shall not be deemed "approved schools".

- (e) "Health Officer". Health Officer of the County of Kern or authorized representative.

SECTION 3-15.20 MASSAGE ESTABLISHMENT. PERMIT REQUIRED. It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises within the City of Ridgecrest, as the owner or operator of a massage establishment as herein defined, unless a permit for the operation of said establishment has been issued by the Office of the City Clerk of the City and remains in effect in conformity with the provisions of this Article and with Article 1 of this Chapter.

The application shall be upon a form provided by said Clerk and shall set forth the exact nature of the services to be provided, the proposed place of business and facilities therefor, and the name, including all names used, and the addresses of each applicant.

If applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation and of each stockholder owning more than ten percent (10%) of the stock of the corporation shall be set forth. If applicant is a partnership, the names and residence addresses of each of the partners including limited partners shall be set forth.

In addition to the foregoing, any applicant for such a permit shall furnish the following information:

- (a) The two (2) previous addresses (if any) three (3) years immediately prior to the present address of applicant.
- (b) Written proof that the individual or partnership applicant is over the age of eighteen (18) years.
- (c) Individual or partnership applicant's height, weight, color of eyes and hair, and sex.
- (d) Two portrait photographs at least 2 inches by 2 inches.
- (e) Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of the application.
- (f) The history of the applicant in operation of a massage establishment or similar business or occupation, including, but not limited to, whether or not such person, in previously operating in this or another city or state under permit, has had such permit revoked or suspended and the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

- (g) All convictions of violations of Section 266i (Pandering), 315 (keeping or residing in a house of ill fame), 316 (keeping a house of prostitution), 318 (prevailing upon a person to visit a place of prostitution), or subdivision (b) of Section 647 (disorderly conduct by soliciting or engaging in prostitution) of the California Penal Code. All convictions of felony offenses involving the transfer, exchange, transportation or sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code. All convictions of attempt or conspiracy to commit any such offenses; of offenses committed in a jurisdiction outside of the State of California which are the equivalent of any of the aforesaid offenses. Whether the applicant is required to register under the provisions of Section 290 (registration as a sex offender) of the California Penal Code. Whether the applicant, including a corporation or partnership, or a former employer of the applicant while so employed, or a building in which the applicant was so employed or a business conducted, was ever subjected to an abatement proceeding under Sections 11225 through 11235 (Red Light Abatement Act) of the California Penal Code or any similar provisions of law in a jurisdiction outside the State of California. All convictions of an offense involving the use of force and violence upon the person of another or of an offense involving the theft of property.
- (h) The name and address of each massage technician who is or will be employed in said establishment.
- (i) The name and address of the owner and lessor of the real property upon which the business is to be conducted, and a copy of the lease or rental agreement.
- (j) Such other identification and information deemed necessary by the City Clerk to discover the truth of the matters hereinbefore specified as required to be set forth in the application.
- (k) Nothing herein contained shall be construed to deny to the investigation official the right to take the fingerprints and additional photographs of the applicant.

SECTION 3-15.21 EXEMPTIONS. The permits required by this Article shall not apply to hospitals, nursing homes, sanitariums, persons holding an unrevoked certificate to practice the healing arts under the laws of the State of California, or persons working under the direction of any such persons or in any of such establishments.

SECTION 3-15.22 PERMIT INVESTIGATION AND FEE. All applications for a massage establishment permit shall be accompanied by an investigation fee in the sum of One Hundred Dollars (\$100), no part of which shall be refundable. Upon receipt of said application, the City Clerk shall refer the application to the Building Department, the Fire Department, the Police Department, and

the City Planning Department, each of which within a period of thirty (30) days from the date of application shall review records or make an inspection of the premises proposed to be devoted as a massage establishment and shall make a written recommendation to the City Clerk concerning compliance with the respective requirements. This fee is in addition to, or in lieu of the Business License fee required in Chapter VI of this Code.

SECTION 3-15.25 ISSUANCE OR DENIAL OF PERMIT. The City Clerk shall issue such permit if upon investigation and the reports filed it is found.

1. That the operation, as proposed by the applicant, if permitted, would comply with all applicable laws, including, but not limited to, the City's building, zoning, and health regulations.

2. The applicant has not been convicted in a court of competent jurisdiction of:

(a) An offense involving theft of property; nor an offense involving the use of force and violence upon the person of another; or

(b) Any violation of Section 266i (Pandering), 315 (keeping or residing in a house of ill fame), 316 (keeping a house of prostitution), 318 (prevailing upon a person to visit a place of prostitution), or subdivision (b) of Section 647 (disorderly conduct by soliciting or engaging in prostitution) of the California Penal Code, or conspiracy or attempt to commit any such offense, or any offense in a jurisdiction outside the State of California which is the equivalent of any of the aforesaid offenses; or

(c) Any felony offense involving the transfer, exchange, transportation or sale of a controlled substance specified in Section 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code; or

3. The applicant is not required to register under the provisions of Section 290 (registration as a sex offender) of the California Penal Code; or

4. The applicant has not had any massage establishment, operators, technician or trainee license or permit, which was issued within the State of California, revoked; or

5. The applicant has not been subjected to a permanent injunction against the conducting or maintaining of a nuisance pursuant to Sections 11225 through 11235 (Red Light Abatement Act) of the California Penal Code, or any similar provisions of law in a jurisdiction outside the State of California.

6. That the applicant has not made any material false, misleading, or fraudulent statement of facts in the permit application or any other document required by the City in conjunction therewith.

Otherwise said permit shall be denied. In the event of denial, notifications and reasons for denial shall be set forth in writing and shall be sent to the applicant by means of registered or certified mail or hand delivery.

SECTION 3-15.26 RENEWAL OF MASSAGE ESTABLISHMENT PERMIT. Every owner's permit heretofore issued shall expire one (1) year after the effective date of this section. Every owner's permit issued hereafter shall expire one (1) year after date of issuance, or renewal. Application for such renewal shall be made, at least thirty (30) days before expiration, upon a form provided by the Tax and License Division, and shall be accompanied by an inspection fee of One Hundred Dollars (\$100). No part of said fee shall be refundable. The Building Division, Fire Department, Police Department, Planning Department, and Tax and License Division shall inspect the massage establishment for the purpose of determining that the provisions of this ordinance are being complied with prior to issuance of the renewal permit.

SECTION 3-15.30 SANITATION AND SAFETY REQUIREMENTS. All premises used by permittees hereunder shall be subject to periodic inspection by the City for safety of the structure and the propriety of plumbing, ventilation, heating, and sanitation. One artificial white light of not less than forty (40) watts shall be provided and lit in each room while a massage is being administered. The walls shall be clean and painted with an approved washable mold resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the massage operation shall be maintained in a clean and sanitary condition. Separate restrooms shall be provided for men and women.

Towels, sheets, and linens of all types and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, clothes, and sheets shall not be used for more than one person. Reuse of such linen is prohibited unless the same has first been laundered. Heavy white paper may be substituted for sheets, provided that such paper is used once for every person and then discarded into a sanitary receptacle.

Dressing and locker facilities shall be available for patrons. Security deposit facilities for the protection of the valuables of the patron shall also be available.

All main external front entrance doors into the establishment and all internal doors leading to massage areas shall remain unlocked during the business hours of the massage establishment.

SECTION 3-15.31 INSPECTION BY CITY OFFICIALS. The investigating officials of the City, including the Health Officer, shall have the right to enter the premises from time to time during regular business hours for the purpose of making reasonable inspections to enforce compliance with building, fire, electrical, plumbing, health, or penal regulations. In the event applicant for either a massage establishment permit or a massage technician's permit has a communicable disease, or if the applicant is in violation of any federal,

state, or local health law or regulation, the application may be denied. In the event a permit has been issued, it may be revoked or suspended in the manner hereinafter set forth in this Article.

SECTION 3-15.35 TRANSFER OF MASSAGE ESTABLISHMENT PERMIT. No massage establishment permit shall be transferable except with the written approval of the City Clerk. An application for such a transfer shall be in writing and shall be accompanied by a filing and investigation fee of One Hundred Dollars (\$100), no part of which shall be refundable. The application for such transfer shall contain the same information as required herein for an initial application for such a permit. In the event of denial, notifications and reasons for denial shall be set forth in writing and shall be sent to the applicant by means of registered or certified mail or hand delivery.

SECTION 3-15.36 MASSAGE FACILITIES OPERATION. Every massage establishment shall comply with the following operating requirements:

- (a) Each person employed or acting as a massage technician shall have a valid permit issued by the City of Ridgecrest and it shall be unlawful for any owner, operator, responsible managing employee, manager or permittee in charge of or in control of the establishment to employ or permit a person to act as a massage technician as defined herein who is not in possession of a valid massage technician's permit.
- (b) Bath and massage operations shall be carried on only between the hours of 6:30 a.m. and 10.00 p.m.
- (c) A list of services available and the cost of such services shall be posted in an open, public place on the premises and shall be described in readily understandable language. No owner, operator, responsible managing employee, manager, or permittee shall permit and no massage technician shall offer to perform any services other than those posted.
- (d) To protect patrons from potential health and sanitary hazards, all employees and massage technicians shall be clean and shall perform all services on the premises in full, clean, outer garments. Clothing furnished to patrons by the establishment shall not be used by more than one (1) patron unless it has first been laundered and disinfected.
- (e) No person shall enter, be or remain, in any part of massage establishment while in possession of, consuming, or using any alcoholic beverage or drugs except pursuant to a prescription for such drugs. The owner, operator, responsible managing employee, manager, or permittee shall not permit any such person to enter or remain upon such premises.

SECTION 3-15.50 MASSAGE TECHNICIAN PERMIT REQUIRED. It shall be unlawful for any person to practice massage as a principal, an employee, or otherwise

within the City of Ridgecrest, unless such person has been issued a massage technician permit by the Clerk of the City and such permit remains in effect in conformity with the provisions of this Article and with Article 1 of this Chapter.

The application shall be upon a form provided by said Division and shall set forth the following information:

- (a) The applicant's full name, including all names used by applicant, residential address, and residence telephone number.
- (b) The name and address of the massage establishment where the applicant is to be employed and the name of the owner of same.
- (c) The names and addresses of any and all previous establishments where applicant has been employed as a massage technician.
- (d) All convictions of violations of Section 266i (pandering), 315 (keeping or residing in a house of ill fame), 316 (keeping a house of prostitution), 318 (prevailing upon a person to visit a place of prostitution), or subdivision (b) of Section 647 (disorderly conduct by soliciting or engaging in prostitution) of the California Penal Code. All convictions of felony offenses involving the exchange, transfer, transportation or sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code. All convictions of attempt or conspiracy to commit any such offenses; of offenses committed in a jurisdiction outside of the State of California which are the equivalent of any of the aforesaid offenses. Whether the applicant is required to register under the provisions of Section 290 (registration as a sex offender) of the California Penal Code. Whether the applicant, including a corporation or partnership, or a former employer of the applicant while so employed, was every subjected to an abatement proceeding under Sections 11225 through 11235 (Red Light Abatement Act) of the California Penal Code or any similar provisions of law in a jurisdiction outside the State of California.

All convictions of an offense involving the use of force or violence upon the person of another or of an offense involving the theft of property.

- (e) Whether any permit to engage in the practice of massage as a massage technician or otherwise has previously been denied applicant or revoked and, if so, the circumstances of such denial or revocation.
- (f) The furnishing of a portrait photograph as least 2 inches by 2 inches, together with a complete set of such person's fingerprints which shall be taken by the Chief of Police or his agent.

- (g) Written proof that applicant is over the age of eighteen (18) years.
- (h) A certificate from a medical doctor stating that the applicant has, within thirty (30) days immediately prior to filing his application herein, been examined and found to be free from any contagious and communicable disease.
- (i) Applicant shall also furnish a diploma or certificate of graduation from an approved school wherein the method, profession, and work of massage techniques are taught.
- (j) A letter from the owner or operator of a massage establishment stating his or her willingness to employ the applicant as a massage technician.

SECTION 3-15.51 PERMIT INVESTIGATION AND FEE. All applications for a massage technician permit shall be accompanied by an investigation fee in the sum of thirty-five dollars (\$35.00), no part of which shall be refundable. Upon receipt of said application, the City Clerk shall refer the application to the Police Department which, within a period of thirty (30) days from the date of application shall make investigation and submit a written recommendation thereon to the City Clerk concerning compliance with the respective requirements.

SECTION 3-15.52 ISSUANCE OR DENIAL OF PERMIT. The permits and License Division shall issue such permit if upon investigation and the report filed it is found:

1. The applicant has not been convicted in a court of competent jurisdiction of:
 - (a) An offense involving theft of property nor an offense involving the use of force and violence upon the person of another; or
 - (b) Any violation of Sections 266i (pandering), 315 (keeping or residing in a house of ill fame), 316 (keeping a house of prostitution), 318 (prevailing upon a person to visit a place of prostitution), or subdivision (b) of Section 647 (disorderly conduct by soliciting or engaging in prostitution) of the California Penal Code; felony offenses involving the sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code; attempt or conspiracy to commit any such offenses; or offenses committed in a jurisdiction outside of the State of California which are the equivalent of any of the aforesaid offenses; or
2. The applicant is not required to register under the provisions of Section 290 (registration as a sex offender) of the California Penal Code; or
3. The applicant, including applicant as a member of a corporation or partnership, or a former employer of the applicant while so employed, has

never been subjected to an abatement proceeding under Sections 11225 through 11235 (Red Light Abatement Act) of the California Penal Code or any similar provisions of law in a jurisdiction outside the State of California.

4. The applicant has not had any massage establishment, massage technician license or permit, which was issued within the State of California, revoked; or

5. That the applicant has not made any material false, misleading, or fraudulent statement of facts in the permit application or in any other document required by the City in conjunction therewith.

6. That the applicant possesses a diploma or certificate from an approved school as herein defined.

Otherwise said permit shall be denied. In the event of denial, notifications and reasons for denial shall be set forth in writing and shall be sent to the applicant by means of registered or certified mail or hand delivery.

SECTION 3-15.53 RENEWAL OF MASSAGE TECHNICIAN PERMIT. Every massage technician permit heretofore issued to an applicant possessing a diploma or certificate from an approved school teaching a course consisting of less than two hundred (200) hours shall expire one (1) year after the effective date of this section, and shall not be subject to renewal unless the applicant possesses a diploma or certificate from an approved school indicating applicant has completed the additional course time to qualify applicant for a renewal of the permit.

Every massage technician permit issued hereafter shall expire one (1) year after date of issuance or renewal. Application for such renewal shall be made at least thirty (30) days before expiration upon a form provided by the City Clerk, and shall be accompanied by a fee of Thirty-Five Dollars (\$35). The application must also be accompanied by a certificate from a medical doctor stating that the applicant has, within thirty (30) days immediately prior to filing his/her application herein been examined and found to be free from any contagious and communicable disease.

SECTION 3-15.54 DISPLAY OF PERMIT. The owner or operator shall display the massage establishment permit issued and the permit of each and every massage technician who is on duty in the establishment in an open and conspicuous place on the premises. Each massage technician's permit shall bear his or her photograph.

The owner or operator shall maintain a register of all persons employed as massage technicians and their permit numbers. Such register shall be available for inspection at all times during regular business hours.

SECTION 3-15.55 NOTIFICATION OF CHANGES. Every massage establishment owner or operator shall report immediately to the City Clerk any and all

changes of address or ownership of the massage establishment, and any changes or transfers of massage technicians employed in the business or practice.

Massage technicians transferring from one establishment to another must secure a new permit and pay to the City Clerk a fee of Five Dollars (\$5.00).

SECTION 3-15.56 OUT CALL MASSAGE SERVICE PROHIBITED. The engaging in or carrying out of massage not at a fixed location in a license establishment but at a location designated by the permittee, massage technician, customer or client is prohibited. Violation of this section shall be a basis for revoking the permits of the massage technician who performs out call massage and/or the massage establishment owner or operator who authorizes or knowingly allows an instance or instances of out call massage.

SECTION 3-15.57 MASSAGE ESTABLISHMENT PERMITTEE'S RESPONSIBLE FOR EMPLOYEE'S ACTS. The massage establishment permit issued under this Article to any owner or operator shall be subject to suspension for the first violation of any of the provisions of this Article by said owner or operator's employees while acting as massage technicians. Upon the second or subsequent such violation, said permit shall be subject to revocation.

SECTION 3-15.60 SUSPENSION OR REVOCATION OF PERMITS. Any massage establishment or massage technician's permit issued under this Article shall be subject to suspension or revocation by the City Administrator for violation of any provision of this Article or for any grounds that would warrant the denial of the issuance of such permit(s) in the first instance.

SECTION 3-15.61 DENIAL OF PERMITS - APPEAL. Any action denial taken by the City Administrator shall be subject to appeal to the City Council.

SECTION 3-15.70 INJUNCTIVE RELIEF. In addition to the legal remedies provided for in this Code, the operation of any massage establishment in violation of the terms of this Article shall be deemed a public nuisance and may be enjoined by the City of Ridgecrest.

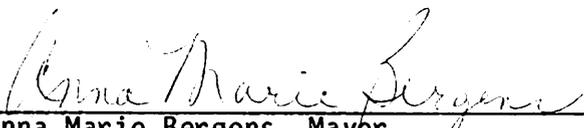
APPROVED AND ADOPTED this 5th day of November, 1984, by the following vote:

AYES: Mayor Bergens, Councilmembers Mower, Condos, Pearson, and Wiknich

NOES: None

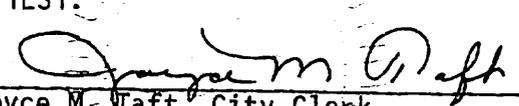
ABSENT: None

ABSTAIN: None



Anna Marie Bergens, Mayor

ATTEST:



Joyce M. Taft, City Clerk