



Massage Establishment Permit Startup Checklist

Getting Started

- 1. Online business license application has been submitted (Unless Renewing the Permit).
- 2. Complete Permit Application.
- 3. Provide 8-year residence history for owners and operators.
- 4. Provide 8-year employment history for owners and operators.

Additional Requirements

- 1. Provide Permit History: Suspensions, Revocations.
- 2. Submit Name and Addresses of all Employees.
- 3. Provide Description of other Businesses on Premises.
- 4. Provide Property Owner/ Lessor Name.
- 5. List all Criminal Convictions (past 5 years).
- 6. Submit Proof of Livescan through Department of Justice (DOJ).
- 7. Payment of Permit Fee.
- 8. Business license required for all employees unless they receive a W-2. If your employees receive a W-2, provide proof of employment status and no business license is required.

**NOTE: REQUESTED DOCUMENTATION WITHIN THIS APPLICATION MUST BE
UPLOADED WHEN SUBMITTING THE ONLINE APPLICATION.**



CITY OF TUSTIN PERMIT APPLICATION

For an application to be accepted, all supplemental information required by Ordinance No. 1252 for purposes of clarification of the activity must be included with this application and the application fee.

Name of Applicant _____ Business Telephone _____

Name of Business (if applicable) _____

Business Address _____

Name of Business Owner _____ Title _____

Identification: Driver's License State ID Passport Other: _____

Identification Number: _____ Issuer: _____

Applicant's Residence Address _____

Email _____ Applicant's Phone Number _____

Name of Business Operator (Massage) _____

(If applicable)

Hours of Operation	Mon _____	Fri _____
	Tue _____	Sat _____
	Wed _____	Sun _____
	Thu _____	

Have you ever been convicted of a felony?

Yes No If yes, fill in the information below:

If you are the business owner, has any operator or employee of the business ever been convicted of a felony?

Yes No If yes, fill in the information below:

Name	Address	Date of Birth	Place of Birth	Where Convicted	When Convicted

I declare under penalty of perjury the information entered on this form is true and correct to the best of my knowledge and belief. As a condition for the issuance of the permit applied for, I agree to submit any additional information required and to conduct all phases of this business in conformance with applicable laws, ordinances, and regulations established for such business. **By signing below, I certify that I will comply with all applicable local, state and federal laws and acknowledge that I have been provided a copy of the applicable Ordinance/Resolution.**

Date _____ Signature _____



REQUEST FOR LIVE SCAN SERVICE

Applicant Submission

CA0302200

MESSAGE ESTABLISHMENT PERMIT

ORI (Code assigned by DOJ)

Authorized Applicant Type

MESSAGE ESTABLISHMENT PERMIT

Type of License/Certification/Permit OR Working Title (Maximum 30 characters - if assigned by DOJ, use exact title assigned)

Contributing Agency Information:

CITY OF TUSTIN

92780

Agency Authorized to Receive Criminal Record Information

Mail Code (five-digit code assigned by DOJ)

300 CENTENNIAL WAY

LT NICHOLS

Street Address or P.O. Box

Contact Name (mandatory for all school submissions)

TUSTIN

CA

92780

714-573-3144 (BUSINESS LICENSING)

City

State

ZIP Code

Contact Telephone Number

Applicant Information:

Last Name

First Name

Middle Initial

Suffix

Other Name

(AKA or Alias) Last

First

Suffix

Date of Birth

Sex Male Female

Driver's License Number

Height

Weight

Eye Color

Hair Color

Billing Number

Misc. (Agency Billing Number)

Number

Place of Birth (State or Country)

Social Security Number

(Other Identification Number)

Home

Address Street Address or P.O. Box

City

State

ZIP Code

Level of Service: DOJ FBI

(If the Level of Service indicates FBI, the fingerprints will be used to check the criminal history record information of the FBI)

Your Number:

OCA Number (Agency Identifying Number)

If re-submission, list original ATI number:

(Must provide proof of rejection)

Original ATI Number

Employer (Additional response for agencies specified by statute):

Employer Name

Mail Code (five digit code assigned by DOJ)

Street Address or P.O. Box

City

State

ZIP Code

Telephone Number (optional)

Live Scan Transaction Completed By:

Name of Operator

Date

Transmitting Agency

LSID

ATI Number

Amount Collected/Billed



REQUEST FOR LIVE SCAN SERVICE

Privacy Notice

As Required by Civil Code § 1798.17

Collection and Use of Personal Information. The California Justice Information Services (CJIS) Division in the Department of Justice (DOJ) collects the information requested on this form as authorized by Business and Professions Code sections 4600-4621, 7574-7574.16, 26050-26059, 11340-11346, and 22440-22449; Penal Code sections 11100-11112, and 11077.1; Health and Safety Code sections 1522, 1416.20-1416.50, 1569.10-1569.24, 1596.80-1596.879, 1725-1742, and 18050-18055; Family Code sections 8700-87200, 8800-8823, and 8900-8925; Financial Code sections 1300-1301, 22100-22112, 17200-17215, and 28122-28124; Education Code sections 44330-44355; Welfare and Institutions Code sections 9710-9719.5, 14043-14045, 4684-4689.8, and 16500-16523.1; and other various state statutes and regulations. The CJIS Division uses this information to process requests of authorized entities that want to obtain information as to the existence and content of a record of state or federal convictions to help determine suitability for employment, or volunteer work with children, elderly, or disabled; or for adoption or purposes of a license, certification, or permit. In addition, any personal information collected by state agencies is subject to the limitations in the Information Practices Act and state policy. The DOJ's general privacy policy is available at <http://oag.ca.gov/privacy-policy>.

Providing Personal Information. All the personal information requested in the form must be provided. Failure to provide all the necessary information will result in delays and/or the rejection of your request.

Access to Your Information. You may review the records maintained by the CJIS Division in the DOJ that contain your personal information, as permitted by the Information Practices Act. See below for contact information.

Possible Disclosure of Personal Information. In order to process applications pertaining to Live Scan service to help determine the suitability of a person applying for a license, employment, or a volunteer position working with children, the elderly, or the disabled, we may need to share the information you give us with authorized applicant agencies.

The information you provide may also be disclosed in the following circumstances:

- With other persons or agencies where necessary to perform their legal duties, and their use of your information is compatible and complies with state law, such as for investigations or for licensing, certification, or regulatory purposes;
- To another government agency as required by state or federal law.

Contact Information. For questions about this notice or access to your records, you may contact the Associate Governmental Program Analyst at the DOJ's Keeper of Records at (916) 210-3310, by email at keeperofrecords@doj.ca.gov, or by mail at:

Department of Justice
Bureau of Criminal Information & Analysis
Keeper of Records
P.O. Box 903417
Sacramento, CA 94203-4170

CITY OF TUSTIN

MESSAGE ESTABLISHMENT PERMIT SUPPLEMENTAL APPLICATION

MESSAGE ESTABLISHMENT PERMIT - OWNER

CHECK HERE IF RENEWAL

Please complete this application and submit it with the required fees and documentation to the Community Development Department. If you are using an interpreter to complete this application, please provide the name and telephone number of the interpreter.

Name _____ Telephone Number _____

PART 1: BUSINESS OWNER'S IDENTIFYING INFORMATION

Last Name		First		Middle	
List All Names (Include Aliases, Nicknames, and/or Maiden Names)					
Home Address					
City		State	Zip	Phone (Residence and Cell)	
Date of Birth	Place of Birth (City, State, and Country)		U.S. Citizen <input type="checkbox"/> Yes <input type="checkbox"/> No		
Sex <input type="checkbox"/> Male <input type="checkbox"/> Female		Height	Weight	Hair	Eyes
Driver's License No.	State	Other Licenses Held			

PART 2: NAME OF MESSAGE ESTABLISHMENT

Name of Message Establishment to be Owned and/or Operated:

Business Name		Operator's Name			
Business Address					
City		State	ZIP	Business Phone	

PART 3: BUSINESS OWNER'S PRIOR ADDRESSES (If necessary, use a separate sheet of paper.)

List in chronological order every address at which you have resided in the past eight (8) years.					
From	Address				
To	City	State	ZIP		
From	Address				
To	City	State	ZIP		
From	Address				
To	City	State	ZIP		

From	Address		
To	City	State	ZIP
From	Address		
To	City	State	ZIP
From	Address		
To	City	State	ZIP

PART 4: EMPLOYMENT HISTORY (If necessary, use a separate sheet of paper.)

Begin with your most recent job and list your work history in chronological order. Include in sequence all previous employment, part-time jobs, and periods of unemployment. Please include all jobs within the past eight (8) years immediately preceding date of application.				
Name of Company		Job Title		Supervisor's Name
From	Employer's Address			
To	City	State	ZIP	Employer's Phone
Name of Company		Job Title		Supervisor's Name
From	Employer's Address			
To	City	State	ZIP	Employer's Phone
Name of Company		Job Title		Supervisor's Name
From	Employer's Address			
To	City	State	ZIP	Employer's Phone
Name of Company		Job Title		Supervisor's Name
From	Employer's Address			
To	City	State	ZIP	Employer's Phone
Name of Company		Job Title		Supervisor's Name
From	Employer's Address			
To	City	State	ZIP	Employer's Phone
Name of Company		Job Title		Supervisor's Name
From	Employer's Address			
To	City	State	ZIP	Employer's Phone

PART 5: CALIFORNIA MASSAGE THERAPY COUNCIL (CAMTC) CERTIFIED

YES

No

Name	Certificate Number	Date Issued	Date of Expiration
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PART 6: PERMIT HISTORY (If necessary, use a separate sheet of paper.)

List all licenses/permits to do business in California or elsewhere that you have previously held OR applied for:		<input type="checkbox"/> I have applied for/previously held no licenses or permits in any state to conduct any type of business.	
City:	State	License/Permit Type	License/Permit No.
<input type="checkbox"/> Issued Date Issued:	Has this license ever been <input type="checkbox"/> Revoked <input type="checkbox"/> Suspended Revoked Date or Dates of Suspension From: To:	Reason:	
Issuing Agency:			
<input type="checkbox"/> Application Denied Date of Application:	Denied by: (Issuing Agency)	Reason:	
City:	State	License/Permit Type	License/Permit No.
<input type="checkbox"/> Issued Date Issued:	Has this license ever been <input type="checkbox"/> Revoked <input type="checkbox"/> Suspended Revoked Date or Dates of Suspension From: To:	Reason:	
Issuing Agency:			
<input type="checkbox"/> Application Denied Date of Application:	Denied by: (Issuing Agency)	Reason:	

PART 7: CRIMINAL RECORD

List all criminal convictions, including pleas of nolo contendere, including those dismissed or expunged pursuant to Penal Code section 1203.4, but excluding minor traffic violations. Massage establishment applicants must include this information for the last five (5) years. CHECK HERE IF NONE <input type="checkbox"/>		
Original Arrest Charge (Crime)	Date of Violation	Arresting Agency
Reason		
Original Arrest Charge (Crime)	Date of Violation	Arresting Agency
Reason		

MESSAGE ESTABLISHMENT PERMIT - OPERATOR

If you are the Owner and Operator, then please skip Part 8-14.

CHECK HERE IF RENEWAL

Please complete this application and submit it with the required fees and documentation to the Community Development Department. If you are using an interpreter to complete this application, please provide the name and telephone number of the interpreter.

Name _____

Telephone Number _____

PART 8: BUSINESS OPERATOR'S IDENTIFYING INFORMATION

Last Name		First		Middle	
List All Names (Include Aliases, Nicknames, and/or Maiden Names)					
Home Address					
City		State	Zip	Phone (Residence and Cell)	
Date of Birth	Place of Birth (City, State, and Country)		U.S. Citizen <input type="checkbox"/> Yes <input type="checkbox"/> No		
Sex <input type="checkbox"/> Male <input type="checkbox"/> Female		Height	Weight	Hair	Eyes
Driver's License No.	State	Other Licenses Held			

PART 9: NAME OF MESSAGE ESTABLISHMENT

Name of Message Establishment to be Owned and/or Operated:

Business Name		Owner's Name			
Business Address					
City		State	ZIP	Business Phone	

PART 10: BUSINESS OPERATOR'S PRIOR ADDRESSES

List in chronological order every address at which you have resided in the past eight (8) years.					
From	Address				
To	City		State	ZIP	
From	Address				
To	City		State	ZIP	
From	Address				
To	City		State	ZIP	
From	Address				

To	City	State	ZIP
From	Address		
To	City	State	ZIP
From	Address		
To	City	State	ZIP

*If necessary, use a separate sheet of paper.

PART 11: EMPLOYMENT HISTORY (*If necessary, use a separate sheet of paper.)

Begin with your most recent job and list your work history in chronological order. Include in sequence all previous employment, part-time jobs, and periods of unemployment. Please include all jobs within the past eight (8) years immediately preceding date of application.				
Name of Company		Job Title		Supervisor's Name
From	Employer's Address			
To	City	State	ZIP	Employer's Phone
Name of Company		Job Title		Supervisor's Name
From	Employer's Address			
To	City	State	ZIP	Employer's Phone
Name of Company		Job Title		Supervisor's Name
From	Employer's Address			
To	City	State	ZIP	Employer's Phone
Name of Company		Job Title		Supervisor's Name
From	Employer's Address			
To	City	State	ZIP	Employer's Phone
Name of Company		Job Title		Supervisor's Name
From	Employer's Address			
To	City	State	ZIP	Employer's Phone
Name of Company		Job Title		Supervisor's Name
From	Employer's Address			
To	City	State	ZIP	Employer's Phone

PART 12: CALIFORNIA MASSAGE THERAPY COUNCIL (CAMTC) CERTIFIED

YES

No

Name	Certificate Number	Date Issued	Date of Expiration
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PART 13: PERMIT HISTORY (If necessary, use a separate sheet of paper.)

List all licenses/permits to do business in California or elsewhere that you have previously held OR applied for:		<input type="checkbox"/> I have applied for/previously held no licenses or permits in any state to conduct any type of business.	
City:	State	License/Permit Type	License/Permit No.
<input type="checkbox"/> Issued Date Issued:	Has this license ever been <input type="checkbox"/> Revoked <input type="checkbox"/> Suspended Revoked Date or Dates of Suspension From: To:	Reason:	
Issuing Agency:			
<input type="checkbox"/> Application Denied Date of Application:	Denied by: (Issuing Agency)	Reason:	
City:	State	License/Permit Type	License/Permit No.
<input type="checkbox"/> Issued Date Issued:	Has this license ever been <input type="checkbox"/> Revoked <input type="checkbox"/> Suspended Revoked Date or Dates of Suspension From: To:	Reason:	
Issuing Agency:			
<input type="checkbox"/> Application Denied Date of Application:	Denied by: (Issuing Agency)	Reason:	

PART 14: CRIMINAL RECORD

List all criminal convictions, including pleas of nolo contendere, including those dismissed or expunged pursuant to Penal Code section 1203.4, but excluding minor traffic violations. Massage establishment applicants must include this information for the last five (5) years. CHECK HERE IF NONE <input type="checkbox"/>		
Original Arrest Charge (Crime)	Date of Violation	Arresting Agency
Reason		
Original Arrest Charge (Crime)	Date of Violation	Arresting Agency
Reason		

PART 15: BUSINESS INFORMATION (If necessary, use a separate sheet of paper.)

Type of Business Organization:	<input type="checkbox"/> Corporation	<input type="checkbox"/> General Partnership	<input type="checkbox"/> Limited Partnership	<input type="checkbox"/> Individual	<input type="checkbox"/> Other:
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For Sole Proprietorships Only	You, the Applicant, must be the Sole Proprietor to submit this Application.	Name of Business as Appears on Fictitious Name Statement:
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For Corporations Only	
Name of Corporation (as shown in Articles of Incorporation):	
State of Incorporation	Date of Incorporation

For General / Limited Partnerships/ LLC
Name of Business as Appears on Fictitious Name Statement

FOR CORPORATIONS Include the following information for each Officer and Director, and for each person who has a financial interest in the corporation amounting to more than five (5%) of the authorized and issued shares.				FOR PARTNERSHIPS Include the following information for each partner, manager and/or member including limited partners.			
Last Name			First Name			Middle Name	
Alias or Maiden Name							
<input type="checkbox"/> Responsible Managing Officer (Only One per Business) <input type="checkbox"/> Officer <input type="checkbox"/> Director				<input type="checkbox"/> Stockholder <input type="checkbox"/> Partner <input type="checkbox"/> Manager/Member			
Residence Address							
City			State	ZIP		Phone	CDL#
Last Name			First Name			Middle Name	
Alias or Maiden Name							
<input type="checkbox"/> Responsible Managing Officer (Only One per Business) <input type="checkbox"/> Officer <input type="checkbox"/> Director				<input type="checkbox"/> Stockholder <input type="checkbox"/> Partner <input type="checkbox"/> Manager/Member			
Residence Address							
City			State	ZIP		Phone	CDL#
Last Name			First Name			Middle Name	
Alias or Maiden Name							
<input type="checkbox"/> Responsible Managing Officer (Only One per Business) <input type="checkbox"/> Officer <input type="checkbox"/> Director				<input type="checkbox"/> Stockholder <input type="checkbox"/> Partner <input type="checkbox"/> Manager/Member			
Residence Address							
City			State	ZIP		Phone	CDL#

Lease Agreement

Name and address of owner and lessor of the real property where the business is to be conducted. If applicant is not the legal owner, submit a copy of the lease and a signed acknowledgment from the owner that a massage establishment will be located on his/her property.			
Name		Address	
City	State	ZIP	Phone Number

Employee Information (Use a separate sheet of paper, if necessary)

State the full, true names and residence addresses of all persons employed, or intended to be employed, as technicians or employees				
Full Name	Position	Address	City	State ZIP
Aliases, Nicknames, and/or Maiden Names		Hire Date	CAMTC Certificate Number	
Full Name	Position	Address	City	State ZIP
Aliases, Nicknames, and/or Maiden Names		Hire Date	CAMTC Certificate Number	
Full Name	Position	Address	City	State ZIP
Aliases, Nicknames, and/or Maiden Names		Hire Date	CAMTC Certificate Number	
Full Name	Position	Address	City	State ZIP
Aliases, Nicknames, and/or Maiden Names		Hire Date	CAMTC Certificate Number	
Full Name	Position	Address	City	State ZIP
Aliases, Nicknames, and/or Maiden Names		Hire Date	CAMTC Certificate Number	
Full Name	Position	Address	City	State ZIP
Aliases, Nicknames, and/or Maiden Names		Hire Date	CAMTC Certificate Number	
Full Name	Position	Address	City	State ZIP
Aliases, Nicknames, and/or Maiden Names		Hire Date	CAMTC Certificate Number	

Establishment Manager(s) Information

Provide the following information for the name of the person, persons, or entity that will provide management services for the massage establishment.			
Name (Last, First, MI)	Driver's License	CAMTC Certificate Number	
Aliases, Nicknames, and/or Maiden Names			
Residence Address	City	State ZIP	Phone
Name (Last, First, MI)	Driver's License	CAMTC Certificate Number	
Aliases, Nicknames, and/or Maiden Names			
Residence Address	City	State ZIP	Phone

Other Businesses Operated (Use a separate sheet of paper, if necessary)

Does the Applicant operate any other business on the same premises, within the City of Tustin, or the State of California? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, for each business, provide the following information.				
Name of Business			Type of Business	
Address	City	State	ZIP	Phone Number

PART 16: CERTIFICATION

<p>I hereby certify, under the penalty of perjury, that the information given is true and correct. I understand that providing false information or withholding information, including any criminal record, is grounds for denial or revocation of my permit, and may subject me to criminal prosecution. I do hereby authorize the City of Tustin, its agents and employees, to seek verification of the information contained on this application. I understand that I may not conduct the activity applied for until a business license and a massage establishment permit have been granted. I further understand that a copy of the City ordinances regulating massage is available to me in the City Clerk's office. If during the term of a permit, a permit holder has any change of information submitted on the original or renewal application not including employee information, the permit holder shall notify the City in writing of such change within ten (10) business days thereafter. In addition, the owner and/or operator must provide written notification to the City at least fourteen (14) calendar days prior to renaming or conveying the massage establishment business (or any portion thereof) to another person.</p>	
<p>_____</p> <p>(Signature)</p>	<p>_____</p> <p>(Date)</p>

Please provide the following with your application. All documents must be originals and must be written in English. City staff will return originals to the applicant.

1. Driver's license or photograph identification (issued by governmental agency) for all owners, officers, directors, shareholders, partners, managers, members and operators.
2. Alien Registration Card (if applicable).
3. Copy of lease and signed acknowledgement from property owner that massage establishment will be located on property.
4. Copy of each massage technician's valid and current CAMTC-issued certificate, CAMTC-issued ID card and driver's license.
5. Copy of Articles of Incorporation and/or Articles of Organization and/or Certificate of Limited Partnership (whichever is applicable).
6. Copy of Fictitious Business Name Statement (if applicable).
7. Copy of Seller's Permit (if applicable).

**MESSAGE ESTABLISHMENT
PROPERTY OWNER ACKNOWLEDGMENT**



Applicant Name: _____
Message Establishment Name: _____
Message Establishment Location Address: _____

Dear Property Owner:

The above-named Applicant has applied for a new or renewed Massage Establishment Permit to operate a massage establishment at the above-referenced location.

If the Applicant is not the legal owner of the real property, a notarized acknowledgment is required from the owner of the property that a massage establishment will be located on his or her property and that the massage establishment shall be subject to Part 6 (Massage Establishments) of Chapter 6 (Personal Services) of Article 3 (Business Regulations) of the Tustin City Code.

Please list all persons on the lease agreement, including any additional persons known by you to have responsibility for this lease:

- 1) _____
- 2) _____
- 3) _____

NOTARIZED ACKNOWLEDGMENT

Property Owner _____
Business address _____
Telephone Number _____

I, the undersigned acknowledge that a massage establishment will be located at the massage establishment location address identified above and that I am the owner of record of the property or that I am an agent of the owner duly authorized to represent the owner in such matters. I further acknowledge and understand that the massage establishment shall be subject to the regulations, rules and restrictions set forth in Part 6 (Massage Establishments) of Chapter 6 (Personal Services) of Article 3 (Business Regulations) of the Tustin City Code, as may be amended from time to time, and that as a result of any violation of these regulations, rules or restrictions, the City may prohibit *any* massage establishment from operating on the premises for a twenty-four (24) month period (TCC § 3664(h)).

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Signed: _____
Printed Name _____
Title _____ Telephone Number _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

On _____, 20____, before me, _____,
(here insert name and title of officer), personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing paragraph is true
and correct.

WITNESS my hand and official seal.

_____(SEAL)
NOTARY PUBLIC SIGNATURE

MESSAGE EMPLOYEE SUPPLEMENTAL FORM



This form is to be used to inform the City of Tustin of NEW employees BEFORE they begin working at your establishment. Employees that terminate employment with your establishment must be reported to the City of Tustin within 5 days of termination. You must include ALL employees on this list each time you submit the form.

Name of Establishment _____

Business License No.	Full Name	Position	CAMTC Certification No.	Hired Date	Termination Date

Owner or Operator Signature _____

Date Submitted _____

ORDINANCE NO. 1462

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUSTIN, CALIFORNIA, AMENDING AND RESTATING PART 6 OF CHAPTER 6 OF ARTICLE 3 OF THE TUSTIN CITY CODE, AND AMENDING PARTS 3, 6 AND 9 OF CHAPTER 2 OF ARTICLE 9 OF THE TUSTIN CITY CODE RELATING TO THE REGULATION OF MASSAGE ESTABLISHMENTS (CODE AMENDMENT 2015-003)

The City Council of the City of Tustin does hereby ordain as follows:

SECTION I. Findings. The City Council finds and determines as follows:

A .The City is authorized to regulate massage and massage establishments pursuant to California Business and Professions Code Sections 460(c), 4612(b) and 16000, California Government Code Section 51030 et seq., and Section 7 of Article XI of the California Constitution.

B. In 2008, the state legislature adopted Senate Bill 731 ("SB 731 "), Section 4600 et seq. of the Business and Professions Code, relating to voluntary statewide certification of massage practitioners and therapists, and restricting local control of massage establishments.

C. SB 731 precluded cities from imposing local licensing and regulatory requirements on massage establishments that utilized state-certified massage therapists and practitioners exclusively.

D. SB 731 mandated that any zoning requirements applicable to massage establishments, "shall be no different than the requirements that are uniformly applied to all other individuals and businesses providing professional services."

E .Prior to the enactment of SB 731 , massage establishments were permitted to be located within the Retail Commercial District (Cl), Central Commercial District (C2), Heavy Commercial District (C3), and Commercial General District (CG) (collectively, the City's "Commercial Zones") only upon the issuance of a Conditional Use Permit.

F. Prior to the enactment of SB 731 , massage establishments were prohibited in the Professional District (Pr).

G .Following the enactment of SB 731 , and consistent with the bill's mandate, the City amended its Land Use Code (Article 9 of the Tustin City Code) to permit massage establishments to be located within the City's Commercial Zones and the Professional District by right, and without need for a conditional use permit.

H. Since the enactment of SB 731 the City has experienced a proliferation of massage establishments. Whereas eleven (11) massage establishments were located within the City in 2008, there are presently forty-one (41) licensed massage establishments in the City.

I. The enactment of SB 731 has had as an unintended consequence the proliferation of illicit massage establishments that are fronts for prostitution and may also be involved in human trafficking.

J. Numerous massage establishments located within the City commonly advertise their services on adult-only websites using suggestive language and provocative photographs of scantily-clad women.

K. Numerous massage establishments located within the City generate reviews on websites where patrons can post reviews and information regarding the sexual services provided at these establishments.

L. On September 18, 2014, the Governor of California signed Assembly Bill 1 147, also referred to as the "Massage Therapy Act," which restores local land use authority over massage establishments by removing SB 731 's broad state preemption of local massage ordinances and gives local governments greater authority to establish reasonable regulations to manage massage establishments in the best interests of the individual community, subject to specific limitations.

M. The City seeks to conform its massage regulations to the requirements of the Massage Therapy Act and to regulate the business of massage to the extent authorized by the Massage Therapy Act.

N. The permit requirements and restrictions imposed by Code Amendment 2015-003 are reasonably necessary to protect the health, safety and welfare of citizens of the City.

O. If adopted, the proposed amendment and restatement of Part 6 (Massage Establishments) of Chapter 6 of Article 3 of the Tustin City Code will regulate the business of massage through business licensing requirements to the extent authorized by the Massage Therapy Act. The proposed amendments to the City's Land Use Code would (1) update the references, and definitions applicable to massage establishments, (2) prohibit the location of new massage establishments within the Professional District, and (3) require a Conditional Use Permit for the establishment of any new chiropractic office in the Professional District, where massage services are provided as an accessory use by anyone other than a state-licensed chiropractor or other exempted professional, as specified.

P. That on September 22, 2015, a public hearing was duly noticed, called, and held on Code Amendment 2015-003 by the Planning Commission. The Planning Commission adopted Resolution No. 4296 and recommended that the City Council approve Code Amendment 2015-003 concerning the regulation of massage establishments.

Q. That on October 20, 2015, a public hearing was duly noticed, called, and held on Code Amendment 2015-003 by the City Council.

SECTION II. Part 6 (Massage Establishments) of Chapter 6 (Personal Services) of Article 3 (Business Regulations) of the Tustin City Code is hereby amended and restated in its entirety to read as follows:

PART 6 - MASSAGE ESTABLISHMENTS

3661 - PURPOSE AND INTENT

It is the purpose and intent of this Part to regulate the operation of massage establishments in the City for the protection of the health, safety and welfare of its operators, massage technicians, employees, clients, and the general public.

3662 - DEFINITIONS

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and application of the following words and phrases used in this Part.

Acupressure means the act of applying manual pressure to parts of the body with the intention of treating illness and/or disease or relieving pain.

California Massage Therapy Council or CAMTC means the non-profit organization formed pursuant to the Massage Therapy Act to regulate massage professionals, businesses, training, practices, and techniques.

Certified massage technician means any individual certified by CAMTC as a certified massage therapist or as a certified massage practitioner pursuant to the Massage Therapy Act.

Manager means the person or persons designated by the owner or operator of a massage establishment to act as the representative and agent of the owner or operator in managing the day-to-day operations of the massage establishment.

Massage or massage services means any method of treating the external parts of the body for remedial, hygienic, relation, or any other reason or purpose, in exchange for compensation, whether by means of pressure on, friction against or stroking, kneading, rubbing, tapping, pouring, vibrating, acupressure, or other manner of touching external parts of the body with the hands, or with the aid of any mechanical or electrical apparatus or appliance with or without supplementary aids such as rubbing alcohol, liniment, antiseptic, oil, powder, cream, ointment, or other similar preparations commonly used in this practice.

Massage establishment means any establishment having a fixed place of business where any person or combination of persons engages in, conducts, carries on, or permits to be engaged in, conducted or carried on, massages or health treatments involving massage. Except as provided in Section 3665, any type of business or establishment at which massage is provided shall be considered a massage establishment for purposes of this Part, regardless if the business holds itself out as something other than a massage establishment and/or also offers or provides other types of products or services. The residence or business office of a sole provider who only engages in out-call massage and does not provide massage services at such residence or business office shall not be considered a massage establishment.

Massage Therapy Act means the California Business and Professions Code Section 4600 et seq., as may be amended from time to time.

Operator means the individual who actively manages the massage establishment. Evidence of active management includes, but is not limited to, evidence that the individual has power to direct or hire, schedule, and dismiss employees and independent contractors, control hours of operation, and create policy or rules. An operator may also be an owner, however, an owner is only the "operator" for purposes of this Part if the owner actively manages and is regularly present at the location of the massage establishment. For purposes of enforcement of the requirements of this Part, "operator" refers to the individual identified as the operator in the most recently issued massage establishment permit.

Out-Call Massage means the performance of massage services at a location other than a massage establishment. Such locations may include, but are not limited to, hotel rooms, offices, or patron residences.

Owner means the person or persons who owns the massage establishment as identified on the City of Tustin massage establishment permit.

Permittee means a person that has been issued a massage establishment permit by the City pursuant to this Part.

Sole provider means any legal form of business organization where the business owner owns 100 percent of the business, is the only person who provides massage services for that business pursuant to a valid and current State certificate, and has no other employees or independent contractors.

State certification or State certificate means a valid and current certificate issued by CAMTC pursuant to California Business and Professions Code Section 4600 et seq., as may be amended from time to time.

3663 - STATE CERTIFICATE AND MASSAGE ESTABLISHMENT PERMIT REQUIRED

(a) It shall be unlawful for any individual to provide massage services in or upon any premises within the City of Tustin unless that individual has a valid and current State certificate.

(b) It shall be unlawful for any owner, operator, manager or any other person in charge of or in control of a massage establishment to employ, retain, or permit an individual to provide massage services at a massage establishment within the City of Tustin who does not possess a valid and current State certificate. Each owner, operator, and manager of a massage establishment shall have a continuing obligation to verify that all individuals providing massage services hold the State certification required by this Part.

(c) It shall be unlawful to commence or to continue to operate a massage establishment within the City of Tustin without having a valid massage establishment permit issued pursuant to this Part. It shall be unlawful to operate a massage establishment at any time while a massage establishment permit is expired, cancelled, suspended or otherwise invalid.

(d) No massage establishment permit may be sold, transferred, or assigned by a permittee, or by operation of law, to any other person or persons. Any such sale, transfer, or assignment, or attempted sale, transfer, or assignment shall be deemed to constitute a voluntary surrender of such permit and such permit shall thereafter be null and void; provided and excepting, however, that if the permittee is a partnership and one (1) or more of the partners should die, one (1) or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such permit, and in such case, the permit, upon notification to the Director, shall be placed in the name of the surviving partner(s). A massage establishment permit issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred, or assigned after the issuance of a permit, or any stock authorized but not issued at the time of the granting of a permit is thereafter issued or sold, transferred, or assigned. Except as expressly provided herein, a massage establishment may not be operated under a new owner or new operator until a new massage establishment permit is issued by the City of Tustin identifying both the new owner and new operator.

3664 - MASSAGE ESTABLISHMENT PERMIT APPLICATION REQUIREMENTS

(a) Prior to commencing operation of a massage establishment, the owner and operator desiring to operate the massage establishment shall apply for and obtain a massage establishment permit. The permit shall be valid for the period Of time set forth for massage establishment permits in Section 3713. The application for the massage establishment permit for each massage establishment shall be made jointly by, and shall be signed by, both the owner and operator of that massage establishment.

(b) All applicants for massage establishment permits shall provide the following relevant information about the owner, operator and establishment:

(1) Information regarding the type of ownership of the business, i.e., whether the business is owned by individual, partnership, limited liability company (LLC), corporation, or otherwise:

a. If the establishment is owned by a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation together with the state and date of incorporation and

the name, residence address, and a copy of a valid and current driver's license and/or identification card issued by a state or federal government agency or other photographic identification bearing a bona fide seal by a foreign government shall be provided for each of its current officers and directors, and of each stockholder holding more than five percent of the stock of that corporation.

b. If the establishment is owned by a partnership or limited partnership, the application shall set forth the name, residence address, and include a copy of a valid and current driver's license and/or identification card issued by a state or federal government agency or other

photographic identification bearing a bona fide seal by a foreign government for each of the partners, including limited partners, if any. In addition, if the establishment is owned by a limited partnership, it shall furnish a copy of its certificate of limited partnership filed with the Secretary of State. In addition, if one (1) or more of the partners is a corporation or LLC, the provisions of this subsection pertaining to corporations and LLCs shall apply.

c. If the establishment is owned by an LLC, the application shall set forth the name, residence address, and include a copy of a valid and current driver's license and/or identification card issued by a state or federal government agency or other photographic identification bearing a bona fide seal by a foreign government for each manager and of each member. In addition, if the establishment is owned by an LLC, it shall furnish a copy of its articles of organization filed with the State. In addition, if one (1) or more of the members is a corporation or limited partnership, the provisions of this subsection pertaining to corporations and partnership shall apply.

d. If the establishment is owned by an individual, the application shall set forth the full name, residence address of the owner, including all aliases.

(2) If the establishment is owned by a corporation, partnership, LLC, or other entity (other than individual ownership), that entity shall designate one (1) of its officers (in the case of a corporation), general partners (in the case of partnerships) or managers (in the case of an LLP) to act as its responsible managing officer. Such responsible managing officer shall complete and sign all application forms required for an individual applicant under this Part.

(3) The precise name under which the massage establishment is to be conducted.

(4) The complete address and telephone numbers of the massage establishment.

(5) A complete current list of the names, all aliases, and current residence addresses of:

a. The operator;

b. All certified massage technicians who will perform massages at the massage establishment, whether as employees or independent contractors of the massage establishment;

c. All other proposed employees, inclusive of independent contractors, in the massage establishment;

d. If the massage establishment will be managed in part by individuals other than the owner or operator, then the list shall include the name(s), all aliases, and current residence address(es) of all such manager(s).

(6) Copies of a valid and current State certificate and CAMTC-issued identification card for each certified massage technician who will perform massage at the massage establishment.

(7) The name and address of the owner and lessor of the real property upon or within which the business is to be conducted. If the applicant is not the legal owner of the property, the

application must be accompanied by a copy of the lease and a signed acknowledgment from the owner of the property that a massage establishment will be located on his/her property, and that the massage establishment shall be subject to this Part.

(8) A statement signed by the owner and operator that each shall be responsible for the conduct of all employees and independent contractors working on the premises of the business, whether or not the owner or operator is aware of such conduct, and acknowledging that any violation of the Massage Therapy Act, any local, state or federal law, or the provisions of this Part may result in the revocation of the massage establishment permit and civil, administrative, or criminal penalties.

(9) If the massage establishment is owned by a corporation, LLC, partnership or other entity (other than an individual), the application shall include a description of any other business owned or operated by the owner, whether located on the same premises, or elsewhere within the State of California.

(10) The application shall include all of the following information concerning the owner (individual owners who are certified by CAMTC are required to obtain a massage establishment permit, but are not required to provide the information required in subsection j. below):

- a. Full complete name and all aliases used by the owner;
- b. All residential addresses for eight (8) years immediately preceding the date of the application;
- c. A description (including name, type of business, address and phone numbers) of any other business owned or operated by the owner, whether located on the same premises, or elsewhere within the State of California;
- d. A valid and current driver's license and/or identification card issued by a state or federal government agency or other photographic identification bearing a bona fide seal by a foreign government, evidencing proof of the owner's date of birth;
- e. Height, weight, color of hair and eyes, and sex of the owner;
- f. Two (2) front-facing portrait color photographs at least two (2) inches by two (2) inches in size;
- g. The owners complete business, occupation, and employment history for eight (8) years preceding the date of application;
- h. The complete massage permit history of the owner; whether the owner has ever had any permit or license issued by any agency, board, city, county, territory, or state; the date of issuance of such a permit or license, whether the permit or license was denied, revoked, or suspended; or if a vocational professional license or permit was denied, revoked, or suspended; and the reason therefor;
- i. All criminal convictions of the owner, including pleas of nolo contendere, within the last five

(5) years, and the date and place of each such conviction and reason therefor, including those dismissed or expunged pursuant to Penal Code Section 1203.4, but excluding minor traffic violations;

j. Evidence that a complete set of fingerprints of the owner was taken through the Livescan service; and

k. Authorization for the City, its agents and employees to seek verification of the information contained in the application.

(1 1) The application shall include all of the following information concerning the operator (individual operators who are certified by CAMTC are required to obtain a massage establishment permit, but are not required to provide the information required in subsection j. below):

a. Full complete name and all aliases used by the operator;

b. All residential addresses for eight (8) years immediately preceding the date of the application;

c. A description (including name, type of business, address and phone numbers) of any other business owned or operated by the operator, whether located on the same premises, or elsewhere within the State of California;

d. A valid and current driver's license and/or identification card issued by a state or federal government agency or other photographic identification bearing a bona fide seal by a foreign government, evidencing proof of the operator's date of birth;

e. Height, weight, color of hair and eyes, and sex of the operator;

f. Two (2) front-facing portrait color photographs at least two (2) inches by two (2) inches in size;

g. The operator's complete business, occupation, and employment history for eight (8) years preceding the date of application;

h. The complete massage permit history of the operator; whether the operator has ever had any permit or license issued by any agency, board, city, county, territory, or state; the date of issuance of such a permit or license, whether the permit or license was denied, revoked, or suspended; or if a vocational professional license or permit was denied, revoked, or suspended; and the reason therefor;

i. All criminal convictions of the operator, including pleas of nolo contendere, within the last five (5) years, and the date and place of each such conviction and reason therefor, including those dismissed or expunged pursuant to Penal Code Section 1203.4, but excluding minor traffic violations;

j. Evidence that a complete set of fingerprints of the operator was taken through the Livescan service; and

k. Authorization for the City, its agents and employees to seek verification of the information contained in the application.

(c) The massage establishment permit application shall be accompanied with an application fee in such amount as the City Council may establish by Resolution or Ordinance.

(d) In addition to a massage establishment permit, a massage establishment shall maintain a City business license and pay any business license tax when due.

(e) The application for the massage business license does not authorize operation of a massage establishment or performing massage services until the massage establishment permit is issued.

(f) The owner and/or operator must provide written notification to the City at least fourteen (14) calendar days prior to renaming or conveying the massage establishment business (or any portion thereof) to another person.

(g) Except as otherwise provided in Section 3668, if, during the term of a massage establishment permit, there is any change to the information submitted on the original or renewal application, the owner and/or operator shall notify the Director in writing of any such change within ten (10) calendar days thereafter.

(h) The Director shall not process or issue a new massage establishment permit where, within a twenty-four month period prior to the submittal of an application, the location of the proposed massage establishment, inclusive of the parcel within which the proposed massage establishment would be located, (i) has been the site of a violation of this Part, or any similar criminal or civil ordinance, law, rule, or regulation of the State of California or any other public agency which regulates the operation of massage establishments, or (ii) has been the site of a massage establishment that was closed due to criminal activity. For purposes of this subsection, closure due to criminal activity includes voluntary closure of a massage establishment after there have been arrests at the location or other notices relating to criminal activity.

3665 - EXEMPTIONS

(a) This Part does not apply to certified massage technicians who perform chair massages on fully clothed persons in the view of the public.

(b) Except as provided in subsection (c) below, the provisions of this Part shall not apply to individuals within the following professional categories while engaged in or performing the duties of their respective professions:

(1) Healing arts professionals licensed by the State under Division 2 (Commencing with Section 500) of the Business and Professions Code, including without limitation, physicians, surgeons, chiropractors, osteopaths, acupuncturists, and physical therapists.

(2) Registered or licensed vocational nurses duly registered by the State of California.

(3) Licensed employees of hospitals, nursing homes, or other health care facilities duly licensed by the State of California when acting within the scope of their licenses.

(4) Barbers and beauticians who are duly licensed under the laws of the State of California, while engaging in practices within the scope of their licenses.

(5) Coaches and trainers employed by accredited high schools and colleges, therein while acting within the scope of their employment.

(6) Trainers of any amateur, semi-professional or professional athlete or athletic team.

(7) Physical therapist students, and massage therapist and massage practitioner students earning practical hours for school/education, and who are currently enrolled in a licensed program for physical therapy or massage services through a recognized school/education center, provided such students work under the direct supervision of an exempted professional as defined in this section. Direct supervision means that an exempted professional, as defined in this section, must be present at all times when a student is performing massages.

(c) An exempted professional listed in subsection (b) above may himself/herself perform massages without a State certification or massage establishment permit. However, it shall be unlawful for any employee or independent contractor of an exempted professional listed in subsection (b) above to perform massages unless either:

(1) All such employees and independent contractors performing massages are independently exempted professionals pursuant to subsection (b) above (in which event no massage establishment permit is required); or

(2) If any . one (1) or more of the employees or independent contractors performing massages is not an exempted professional listed in subsection (b), the establishment is operated subject to a valid massage establishment permit issued pursuant to this Part. If a massage establishment permit is required under this paragraph, then the applicant for the massage establishment permit shall provide, as to each individual who performs massage services at the establishment, either of the following:

i. The documents and information required by subsection 3664(b)(6), or

ii. Documentary evidence that such individual is an exempted professional listed in subsection (b) above.

3666 - OUT-CALL MASSAGE

(a) No person shall perform an out-call Massage in the City of Tustin without possessing a valid and current State certificate.

(b) Notwithstanding any other provision of this Part, the owner or operator of a massage establishment with a fixed place of business providing out-call massage shall obtain a massage establishment permit in accordance with the requirements set forth in this Part.

3667 - MASSAGE ESTABLISHMENT—FACILITIES

Every massage establishment shall maintain facilities meeting the following requirements:

- (a) Sign: Subject to applicable provisions of the City's Codes, a recognizable and legible sign shall be posted at the main entrance identifying the business as a massage establishment.
- (b) Lighting: Minimum lighting shall be provided in accordance with the Electrical Code adopted by the City and, in addition, at least one (1) artificial light of not less than forty (40) watts shall be provided in each room or enclosure where massage services are performed on patrons and shall be activated at all times while a patron is in such room or enclosure.
- (c) Equipment: Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided.
- (d) Water: Hot and cold running water shall be provided at all times.
- (e) Linen storage: Closed cabinets shall be provided and utilized for storage of clean linen, and approved receptacles shall be provided for the deposit of soiled linen.
- (f) Separation of sexes: If male and female patrons are to be served simultaneously at the massage establishment, a separate massage room or rooms and separate dressing, bathing and toilet facilities (if provided) shall be provided and utilized for male and female patrons. Each separate facility or room shall be clearly marked as such.
- (g) Massage table pads: Pads used on massage tables shall be covered in a professional manner with durable, washable plastic or other waterproof material acceptable to Orange County Health Care Agency.
- (h) Steam rooms and sauna facilities: Where steam rooms or sauna baths are provided, if male and female patrons are to be served simultaneously, separate steam rooms or sauna rooms shall be provided for male and female patrons.

3668 - MASSAGE ESTABLISHMENT—OPERATIONS

Every massage establishment shall comply with the following operating requirements:

- (a) After obtaining a massage establishment permit, and prior to conducting business on the massage establishment premises, the owner or operator shall provide the Director with a complete roster of the names, job titles and residence addresses of all employees and independent contractors for the massage establishment, including but not limited to massage technicians and managers, and the date the employee or independent contractor was hired. The owner or operator shall also provide the Director with copies of a State certificate and CAMTC-issued identification card for all individuals providing massage services for the massage establishment. The owner or operator shall report to the Director any change of employees or independent contractors, whether by new or renewed employment, discharge or termination and provide an updated roster and documentation evidencing State certification as appropriate. No such newly hired or renewed employee or independent contractor shall be present at the massage establishment prior to such time as the owner or operator provides the

Director with the updated roster and State certification documentation required by this section. The owner or operator shall provide the updated roster within five (5) calendar days following the date of termination of any employee or independent contractor. The roster, and copies of a State certificate and CAMTC-issued identification card for all individuals providing massage, shall be kept at the premises and be available for inspection by officials charged with enforcement of this Part.

(b) The massage establishment permit issued pursuant to this Part shall be displayed in an accessible and conspicuous place, visible from the entrance and/or reception and waiting area of the massage establishment.

(c) Massage services shall be carried on and the premises shall be open only between the hours of 6:00 a.m. and 10:00 p.m. A massage begun any time before 10:00 p.m. must nevertheless terminate at 10:00 p.m. No person may provide massage on the premises after 10:00 p.m.

(d) A list of services shall be posted in an open, public place on the premises, and shall be described in readily understood language. No owner, operator, or manager shall permit, and no massage technician, or any other massage establishment employee or independent contractor, shall offer to perform any services other than those posted.

(e) The following notice shall be posted in an open, public place on the premises:

“NOTICE TO ALL PATRONS: THIS MASSAGE ESTABLISHMENT AND THE MASSAGE ROOMS DO NOT PROVIDE COMPLETE PRIVACY AND ARE SUBJECT TO INSPECTION BY AUTHORIZED CITY OF TUSTIN PERSONNEL WITHOUT PRIOR NOTICE.”

(f) The following notice, measuring at least 8.5 inches by 11 inches in size, written in 16-point font, shall be posted in a conspicuous place in the massage establishment in clear view of the public and employees, and displayed in English, Vietnamese, Mandarin, Spanish, Cantonese, Korean:

If you or someone you know is being forced to engage in any activity and cannot leave-- whether it is commercial sex, housework, farm work, construction, factory, retail, or restaurant work, or any other activity--call the National Human Trafficking Resource Center at 1-888-373-7888 or the California Coalition to Abolish Slavery and Trafficking (CAST) at 1-888KEY-2-FRE(EDOM) or 1-888-539-2373 to access help and services.

Victims of slavery and human trafficking are protected under United States and California law. The hotlines are:

- Available 24 hours a day, 7 days a week
- Toll-free

- Operated by nonprofit, nongovernmental organizations
- Anonymous and confidential
- Accessible in more than 160 languages
- Able to provide help, referral to services, training, and general information

(g) No massage establishment shall be open for business without having at least one certified massage technician on the premises, and on duty.

(h) An owner, operator or manager shall be at the massage establishment at all times when the massage establishment is open for business.

(i) Each massage technician shall, at all times while on the premises, wear and display their original CAMTC-issued identification card on their outer clothing and in plain view.

(j) Front doors used for patron access, and internal doors leading into an area where massages are being performed, shall remain unlocked during business hours, unless the massage establishment is a business entity owned by one individual with one or no employees or independent contractors. Internal doors shall not be equipped with a "peep hole" or any other device that allows anyone to see into or out of a room when the door is closed.

(k) Towels and linens shall not be used on more than one (1) patron unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one (1) patron. Separate closed cabinets or containers shall be provided for the storage of clean and soiled linen and shall be plainly marked: "clean linen," "soiled linen."

(l) Wet and dry heat rooms, steam or vapor rooms or cabinets, shower rooms and compartments, toilet rooms and pools shall be thoroughly cleaned and disinfected as needed, and at least once each day the premises are open, with a disinfectant approved by the Health Department. Bathtubs shall be thoroughly cleaned after each use. All walls, ceilings, floors, and other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition.

(m) Instruments utilized in performing massage shall not be used on more than one (1) patron unless they have been sterilized using approved sterilizing methods. Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided which are approved by the department or agency designated by the City Manager to make inspections for compliance with health standards.

(n) Where a covering is furnished by the massage establishment, it shall not be used by more than one (1) patron until it has first been laundered and disinfected.

(o) Every massage establishment shall keep a written record of the date and hour of each treatment administered, the name and address of each patron, the name of the massage technician administering treatment, and the type of treatment administered, to be recorded on a patron release form. Such written record shall be open to inspection by officials charged with enforcement of this Part. Such records shall be kept on the premises of the massage establishment

for a period of two (2) years. In the event the massage establishment relocates, the records shall be retained at the new location.

(p) No part of the massage establishment shall be used for residential or sleeping purposes.

(q) Only professional massage tables may be placed in massage rooms and utilized for massage services. The tables must have a minimum height of eighteen (18) inches. Beds, mattresses, waterbeds, futons, sofa beds, or any type of portable or convertible beds are not permitted on the premises.

(r) No massage establishment shall simultaneously operate as a school of massage, or share facilities with a school of massage.

3669 - PROHIBITED CONDUCT

(a) No massage technician, or any other massage establishment employee, inclusive of independent contractors, shall violate the provisions of Section 647(a) and (b) of the California Penal Code, or any other state law involving a crime of moral turpitude, and such practices shall not be allowed or permitted by anyone.

(b) No massage technician, or any other massage establishment employee or independent contractor, shall expose their genitals, pubic area, buttocks, anus, or breast(s) below the point immediately above the top of the aureole to the view of a massage establishment patron.

(c) No massage technician while engaged in the practice of massage, or while visible to patrons of the massage establishment, shall dress in: attire that is transparent, see-through, or substantially exposes the massage technician's undergarments; swim attire, if not providing a water-based modality approved by CAM TC; a manner that exposes the massage technician's breast, buttocks, or genitals; or a manner that constitutes indecent exposure in violation of Section 314 of the California Penal Code.

(d) Except as expressly permitted herein, a massage technician shall not massage a patron of one (1) sex within the view of a patron of the opposite sex, and such practices shall not be allowed or permitted by anyone unless all parties expressly consent to the treatment, location, and presence of the patron of the opposite sex.

(1) This subsection shall not apply if all involved patrons are fully clothed, excluding socks or stockings.

(2) No more than one (1) male and one (1) female may consent to be massaged in the same treatment room.

(3) No person under the age of eighteen (18) may consent to a massage in the presence of another unless the other patron present is the minor's parent or legal guardian, and the parent or legal guardian consents.

(e) No person(s) other than an owner, operator, manager, employee, independent contractor or patron shall be allowed beyond the reception and waiting area during the hours of

operation. Any other person(s) found beyond the reception and waiting area including but not limited to hallways, massage rooms, offices, lounge areas, or dressing rooms will be in violation of this section. Notwithstanding the foregoing, the following persons may be permitted beyond the reception area, and present in massage rooms while massage services are provided without violating this subsection: (1) the parents or guardian of a patron who is a minor child; (2) a minor child of a patron; or (3) the conservator, aide, or other caretaker of a patron.

(f) No more than two (2) members of the same sex may consent to be massaged in the same treatment room unless all involved patrons are fully clothed, excluding socks or stockings.

(g) No massage technician, or any other massage establishment employee, inclusive of independent contractors, shall engage in any form of "unprofessional conduct" as defined by Section 4609(a)(1) of the Massage Therapy Act, including:

(1) Engaging in any form of sexual activity on the premises of the massage establishment.

(2) Engaging in sexual activity while providing massage services for compensation.

(3) Providing massage of the genitals or anal region.

(4) Providing massage of female breasts without the written consent of the person receiving the massage and a referral from a licensed California health care provider.

(h) A massage establishment patron's genitals, anus, and in the case of a female, her breasts (except as expressly permitted by subsection (g) above), must be fully covered at all times while a massage technician or any other massage establishment employee, inclusive of independent contractors, is present in the same room as the patron.

(i) No person shall enter, be, or remain in any part of a massage establishment while in the possession of, consuming, or using any alcoholic beverage or illegal drug. Legal over-the-counter drugs and prescription drugs are permitted, provided the individual in possession of the prescription drug is the individual identified on the prescription label. The owner, operator, manager or any other massage establishment employee or independent contractor shall not permit any person in possession of illegal drugs to enter or remain upon such premises.

3669.1 - RESPONSIBILITY

The owner, operator, and manager shall be responsible for the conduct of all employees, inclusive of independent contractors, working on the premises of the massage establishment, whether or not the owner, operator, or manager is aware of such conduct. Any act or omission of any employee or independent contractor constituting a violation of the provisions of this Part shall be deemed an act or omission of each owner, operator and manager for purposes of determining (a) compliance with this Part, and (b) whether the massage establishment permit shall be revoked, denied, or renewed.

3669.2 - INSPECTION BY CITY OFFICIALS

Any duly authorized official of the City, including but not limited to, the City police,

designated representatives, code enforcement officers, health officials and building and fire inspectors, shall have the right to enter any massage establishment premises from time to time during regular business hours prior to the issuance of a massage establishment permit and subsequently thereafter for the purposes of making reasonable inspections to ensure compliance with this Part, with applicable laws, and with building, fire, electrical, plumbing or health and safety regulations.

3669.3 - VIOLATION—PENALTY

In addition to any other penalty or remedy set forth in the Tustin City Code (including all remedies available under Chapter 1 of Article 1 of the Tustin City Code) or set forth under State or Federal law, any person violating this Part shall be guilty of a misdemeanor, punishable by a fine of one thousand dollars (\$1,000.00) per violation or by imprisonment in the county jail for a period not to exceed six (6) months, or by both such fine and imprisonment. Each day or portion thereof that a person permits a violation of this Part to continue shall constitute a separate and subsequent offense.

3669.4 - UNLAWFUL OPERATION DECLARED NUISANCE

Any massage establishment operated, conducted or maintained contrary to the provisions of this Part shall be and the same is hereby declared to be unlawful and a public nuisance. The City Attorney may, in addition to, or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal or enjoinder thereof, in the manner provided by law. The City Attorney shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as shall abate or remove such massage establishment and restrain and enjoin any person from operating, conducting or maintaining a massage establishment contrary to the provisions of this Part.

SECTION III. Section 3141 (Definitions) of Part 4 (Definitions) of Chapter 1 (General Business Regulations) of Article 3 (Business Regulations) of the Tustin City Code is hereby amended to delete the following terms and phrases (deletions shown in

SECTION IV. Subsection (a) of Section 9231 — Professional District (Pr) of Article 9 of the Tustin City Code is amended to read as follows (deletions shown in ~~striketrough~~, additions shown in bold-italics):

"a. Permitted Uses

In the Professional District (Pr), only the following uses (or uses which, in the opinion of the Community Development Director and/or the Planning Commission, are similar) will be allowed subject to the development standards identified in Table 1 of Section 9230 and/or as specified in this Chapter.

1. Accessory buildings and uses (except that no building site may be used simultaneously for residential and professional purposes).

2. Advertising agencies.
3. Automobile broker (office-use only).
4. Banks, financial institutions, and savings and loans (no drive-thru).
5. Collection agencies.
6. Home occupations in accordance with this Chapter.
7. Insurance agencies.
8. Interior decorator or artist studios.
9. Land and property management.
10. Management, technical or professional consultants.

114-2. Office uses, including professional and general (as defined in Section 9297).

124-3. Personnel agencies.

1344. Pharmacies, dispensing and selling only drugs, medicines and health.

1445. Photographers.

1546. Single-family dwellings and those accessory structures, buildings and uses normally incidental to the uses of a building or premises for singlefamily occupancy subject to the requirements of the RI District.

1647. Social work.

1748. Stock brokers.

180. Title insurance companies.

1920. Travel agencies.

2024. Tutoring Facilities."

SECTION V. Subsection (c) of Section 9231 — Professional District (Pr) of Article 9 of the Tustin City Code is amended to read as follows (deletions shown in ~~stFikethæugh~~, additions shown in ***bold-italics***):

"c. Conditionally Permitted Uses

The following uses (or any other uses which, in the opinion of the Community Development Director and/or the Planning Commission, are similar)

may be conditionally permitted in the Professional District (Pr) subject to the issuance of a Conditional Use Permit and subject to the development standards identified in Table 1 of Section 9230 and/or as specified in this Chapter.

1. Adult entertainment booking agencies (as defined in Section 3141 and subject to the provisions set forth in Chapter 9).

2. Chiropractic offices, where massage services are provided as an accessory use by anyone other than a state-licensed chiropractor or other exempted professional as defined in Section 3665 of the Tustin City Code (Subject to Article 3 Chapter 6 Part 6 of the Tustin City Code).

3.2. Drive-thru facilities.

4.3. Professional, instructional, motivational and/or seminar schools."

SECTION VI. Subsection (g) of Section 9263 of Article 9 of the Tustin City Code is revised to read as follows (deletions shown in ~~stFikethæegÅ~~, additions shown in ***italics***):

g. ***Parking Requirements By Land Use.*** The minimum number of parking spaces to be provided for each use shall comply with Table 1.

TABLE 1: PARKING REQUIREMENTS BY LAND USE

Land Use Type:

- Personal services
- Barber/beauty shops (and other personal services: ***massage establishment***)
- tanning salon

Parking Spaces Required:

- 1 space for each 250 sq. ft. of gross floor area

SECTION VII. The definition of "Adult Business" in Section 9297 of Article 9 of the Tustin City Code is amended as follows to remove "massage parlor" from said definition (deletions shown in ~~s-tFike#weugh~~):

"Adult Business" shall mean any business which is conducted exclusively for the patronage of adults, and as to which minors are specifically excluded from patronage thereat, either by law or by the operators of such business. "Adult Business" shall also mean and include adult bookstores, adult theaters, ~~message+av.leæ~~; ***topless dancing, stripping, figure modeling studios, adult motels or hotels,*** but shall not include those uses or activities the regulation of which are preempted by state law."

SECTION VIII. The definition of "Massage Establishment" in Section 9297 of Article 9 of the Tustin City Code is amended as follows (deletions shown in ~~stFikethæegh~~, additions shown in ***bold-italics***):

"***Massage Establishment***" shall be defined as set forth in Section 3662 34-44 of the Tustin City Code.

SECTION 'X. Effective Date. This Ordinance shall take effect on the 31 st day after its adoption. The City Clerk or his or her duly appointed deputy shall certify to the adoption of the Ordinance and cause this Ordinance to be published as required by law.

Urgency Ordinance No. 1451 , as extended, shall be repealed as of effective date of this Ordinance.

Upon the effective date of this Ordinance, all massage establishments and masseurs will be required to comply with the standards of conduct and operational requirements set forth herein. The massage establishment permit application requirements contained in this Ordinance shall apply to all new massage establishments and renewals of previously approved massage establishment permits.

SECTION X. CEQA Exemption. The City Council finds that the proposed Ordinance is not subject to the California Environmental Quality Act ("CEQA"; Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs. , title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION X'. Seye.Ebjljty. If any section, sub-section, clause or phrase in this Ordinance or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of this Ordinance or the application of such provisions to other persons or circumstances shall not be affected.


PASSED AND ADOPTED, at a regular meeting of the City Council of the City of Tustin

on this 3rd day of November, 2015.



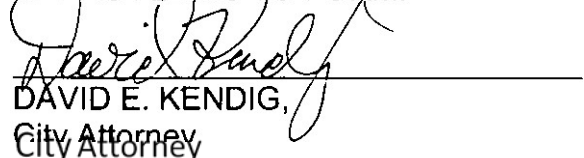
Charles E. Puckett,
Mayor

ATTEST:



Erica N. Rabe,
City Clerk

APPROVED AS TO FORM:



DAVID E. KENDIG,
City Attorney

ORDINANCE CERTIFICATION

STATE OF CALIFORNIA)

COUNTY OF ORANGE) SS

CITY OF TUSTIN

ORDINANCE NO. 1462


I, Erica N. Rabe, City Clerk and ex-officio Clerk of the City Council of the City of Tustin, California, do hereby certify that the whole number of the members of the City Council of the City of Tustin is 5; that the above and foregoing Ordinance No. 1462 was duly and regularly introduced at a regular meeting of the Tustin City Council, held on the 20th day of October, 2015 and was given its second reading, passed, and adopted at a regular meeting of the City Council held on the 3rd day of November, 2015 by the following vote:

COUNCILPERSONS AYES: Puckett, Nielsen. Gomez,
Murray. Bernstein (5)

COUNCILPERSONS NOES: _____ None (0)

COUNCILPERSONS ABSTAINED: _____ None (0)

COUNCILPERSONS ABSENT: _____ None (0)



ERICA N. RABE,
City Clerk