ORDINANCE NO. 1392

AN ORDINANCE REPUBLISHING CHAPTER 14.3
OF THE SOLANO COUNTY CODE
CONCERNING MASSAGE ESTABLISHMENTS

The Board of Supervisors of the County of Solano, State of California, does ordain as follows:

SECTION I.

Chapter 14.3 of the Solano County Code entitled "Massage Establishment," is hereby republished, to read as follows:

CHAPTER 14.3

MASSAGE ESTABLISHMENT

§ 14.3-10. Declaration of policy.
§ 14.3-12. Exceptions.
§ 14.3-14. Permits--Required.
§ 14.3-15. Same--Application--Fees; investigation.
§ 14.3-16. Same--Same--Contents.
§ 14.3-17. Same--Nontransferable.
§ 14.3-20. Same--Appeal of denial.
§ 14.3-21. Same--Display.
§ 14.3-22. Same--Revocation or suspension.
§ 14.3-23. Name of business.
§ 14.3-24. Facility requirements.
§ 14.3-25. Display of list of services and costs.
§ 14.3-26. Inspections--Establishment.
§ 14.3-27. Same--Records.
§ 14.3-30. Change of location.
§ 14.3-31. Violations and penalties.

Sec. 14.3-10. Declaration of policy.

It is hereby declared that the business of operating massage establishments, as defined herein, is a business affecting the public health, safety and general welfare. (Ord. No. 896, § 1.)
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For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Massage. Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in the practice.

Massage establishment. (1) Any establishment having a place of business where any person, firm, association or corporation engages in or carries on, or permits to be engaged in or carried on, any of the activities mentioned in the definition of "massage" or (2) any establishment engaging in or carrying on, or permitting to be conducted or carried on, any business of giving Turkish, Russian, vapor, sweat, electric, salt, magnetic or other kind or character of baths other than tub baths.

Massage technician. Any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.

Employee. Any and all persons, other than the massage technician, who renders any service to the permittee, who receives compensation directly from the permittee, and who have no physical contact with the customer or client.

Person. Any individual, partnership, corporation, association or other group, however organized. (Ord. No. 896, § 2.)

Sec. 14.3-12. Exceptions.
The provisions of this chapter shall not be construed as applying to any physician, surgeon, chiropractor, osteopath, nurse or technician working under the supervision of a physician, surgeon, chiropractor or osteopath licensed to practice their respective professions in the state; nor shall it apply to any treatment administered in good faith in the course of the practice of any healing art or profession by any person licensed to practice such art or profession under the Business and Professions Code of the state.

The provisions of this chapter shall not be construed as applying to any barber or cosmetologist licensed under the Business and Professions Code performing barbering or cosmetology services. (Ord. No. 896, § 3.)

A massage establishment which is created and operated in accordance with the provisions of this chapter shall be located
only in those portions of the county wherein permitted by applicable zoning. (Ord. No. 896, § 4.)

Sec. 14.3-14. Permits--Required.
   (a) Operator's permit. No person shall operate or allow the operation of a massage parlor without a valid permit.
   (b) Massage technician. No person shall act as a massage technician, nor shall anyone employ a person as a massage technician for other individuals who do not have a valid massage technician permit. Every operator shall maintain a register of all persons so employed and their permit numbers, which register shall be available for inspection by the sheriff's department during regular business hours. (Ord. No. 896, § 5.)

Sec. 14.3-15. Same--Application--Fees; investigation.
   (a) Persons desiring to obtain a permit to operate a massage establishment shall make application to the sheriff's department and pay a nonrefundable fee, made payable to the county, of one hundred dollars to defray in part the cost of investigation and report.
   (b) Persons desiring to perform massage services or to act as a massage technician shall make application to the sheriff's department and pay a nonrefundable fee, made payable to the county, of fifty dollars to defray in part the cost of investigation and report. A permit to perform massage services does not authorize the operation of a massage establishment. Any person permitted to perform massage services who desires to operate a massage establishment must separately apply for a permit therefor.
   (c) Persons desiring to perform massage services or to act as a massage technician shall, upon application to the sheriff's department for a permit, pay the sum of five dollars and five cents, or such other sum as may be fixed from time to time by the department of justice of the state. Such processing fee shall be paid by either money order or cashier's check, and shall be made payable to the state department of justice, for processing noncriminal fingerprint cards by the department of justice. This fee shall be in addition to other fees required by this chapter.
   (d) All applications made under subsection (a) and (b) above shall be investigated by the county sheriff's department. (Ord. No. 896, §16.)

Sec. 14.3-16. Same--Same--Contents.
   All applicants for permit, whether as operator or technician, shall submit the following information:
   (a) The full name and present address of applicant.
   (b) Two previous addresses immediately prior to the present address of applicant, and the dates of residence at each.
   (c) Applicant's birth date, height, weight, color of eyes and hair.
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(d) Applicant shall submit to being fingerprinted and photographed by the sheriff’s department.

(e) A certificate from a medical doctor stating that the applicant has, within thirty days immediately prior thereto, been examined and found to be free of any contagious or communicable disease.

(f) In addition to the information required by all applicants under subsections (a) through (e) of this section, the following information shall be required of any massage establishment applicant existing in the form of a partnership, corporation, association or other group, however organized:

(1) If an applicant for permit for a massage establishment is a partnership, all partners will provide the data required under subsections (a) through (e) above.

(2) If an applicant for permit for a massage establishment is a corporation or association, each officer, director and each shareholder holding more than ten percent of the active voting stock or interest in the organization shall provide the data required under subsection (a) through (e) above.

(3) Each individual in charge of a massage establishment on behalf of any such group shall furnish the data required under subsections (a) through (e) above.

(g) In addition to the information required of all applicants under subsections (a) through (e) of this section the following information shall be required of applicants for permits to operate a massage establishment: The business license history of the applicant, whether such person in previously operating in this or another city or state under license has had license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

(h) In addition to the information required of all applicants under subsections (a) through (e) of this section, the following information shall be required of each massage technician applicant:

(1) A certificate of graduation from a licensed school of massage which offers a course of at least seventy hours, with a curriculum that includes, but is not limited to, massage theory and techniques, anatomy and physiology, hygiene and professional ethics where the entire course shall have been taught under the direct supervision of a licensed instructor.

(2) Be over the age of eighteen years. (Ord. No. 896, §17.)

Sec. 14.3-17. Same—Nontransferable.

Permits issued pursuant to this chapter are not transferable. (Ord. No. 896, § 14.)
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(a) The sheriff's department may issue a massage permit within fifteen days following application unless it has proof that the applicant for a permit as an owner, operator or technician has been convicted of:

(1) An offense involving conduct which requires registration pursuant to section 290 of the Penal Code.

(2) A violation of sections 266i, 315, 316, 318, or subdivision (b) of section 647 of the Penal Code.

(3) Any felony offense involving the sale of a controlled substance specified in section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code.

(b) The sheriff's department, upon receiving an application from a massage establishment permit, shall refer the application to the environmental management official, the appropriate fire protection district, and the health services department, which departments shall inspect the premises proposed to be operated as a massage establishment and make written recommendations to the sheriff's department concerning compliance with the provisions of this chapter, and all other laws which they administer. (Ord. No. 896, § 18; Ord. No. 960, § 1.)


The sheriff's department shall review the application, investigation reports and recommendations and shall issue the permit, unless it finds any of the following to be true:

(a) That any of the information on the application has been knowingly falsified with intent to deceive.

(b) That the premises and the conduct of activities thereon is inimical to the public health, safety or general welfare.

(c) That the applicant or any person closely connected with the operation or management of any establishment has been convicted of the violation of any of the offenses enumerated in section 14.3-18, subsection (a).

(d) That the premises do not comply with all applicable sections of the ordinances of the county. (Ord. No. 896, § 19.)

Sec. 14.3-10. Same--Appeal of denial.

Any person denied a permit by the sheriff's department may appeal that decision by filing written notice of such appeal and the grounds therefor with the clerk of the board of supervisors within ten days after the decision of the sheriff's department. Upon receipt of the appeal, the matter shall be set for review within thirty days by the county board of supervisors. No rights shall be exercised under any permit until the board of supervisors renders its decision. (Ord. No. 896, § 20.)
Sec. 14.3-11. Same--Display.

All permits issued pursuant to this chapter for a massage establishment, and for massage technicians employed by said establishments, shall be displayed in a conspicuous place so that they may be readily seen by persons entering the premises. (Ord. No. 896, § 6.)

Sec. 14.3-12. Same--Revocation or suspension.

A permit may be revoked or suspended on any grounds set forth in subsections (a) and (b) below. No permit shall be revoked or suspended until after a hearing shall have been held before the board of supervisors to determine just cause for such revocation or suspension. Provided, however, that the sheriff's department may order any permits suspended pending such hearing; and it shall be unlawful for any person to carry on the business of a massage technician or to operate as a massage establishment, depending upon the particular type of permit which has been suspended or revoked, until the suspended or revoked permit has been reinstated by the sheriff's department. Notice of such hearing shall be given at least five days prior to the date of the hearing thereon. The notice shall state the grounds of the complaint against the holder of such permit, or against the business carried on by the permittee at the massage establishment and shall state the time and place where such hearing will be held. Such hearing shall be held within thirty days, or as soon thereafter as agreed to by both parties.

Such notice shall be served upon the permit holder by delivering the same to such person, or by leaving such notice at the place of business or residence of the permit holder, in the custody of a person eighteen years of age, or older. In the event the permit holder cannot be found and the service of such notice cannot be made in the manner herein provided, a copy of such notice shall be mailed, postage fully prepaid, addressed to the permit holder at his place of business or residence at least five days prior to the date of such hearing.

The permit may be revoked for any of the following reasons:

(a) The permittee has violated any of the provisions of this chapter.

(b) The permittee has been convicted of offenses set forth in subsection (a) of section 14.3-18.

The decision of the board of supervisors shall be final. Upon revocation, the permit, and any other business license shall be surrendered to the county. (Ord. No. 896, § 21.)


No person subject to the provisions of this chapter shall operate under any name or conduct business under any designation not specified in the permit. (Ord. No. 896, § 9.)
Sec. 14.3-14. Facility requirements.

All massage establishments shall comply with the following requirements:

(a) A recognizable and legible sign shall be posted at the main entrance identifying the premises as a massage establishment.

(b) Lighting shall be provided in accordance with the Building Code and, in addition, at least ten foot candles of light as measured thirty inches above the floor shall be provided in each room or enclosure where massage services are performed on individuals.

(c) Mechanical ventilation shall be provided for each enclosure or room.

(d) Equipment, approved by the department of health services, for sanitizing instruments, towels and linens shall be provided.

(e) Closed cabinets shall be utilized for the storage of clean linen.

(f) Bathing, dressing, locker and toilet facilities shall be provided for patrons. If male and female patrons are to be served simultaneously, separate massage rooms, bathing, dressing, locker and toilet facilities shall be provided for male and female patrons. A minimum of one locking type cabinet shall be provided for each patron to be served.

(g) All walls, ceilings, floors, pools, showers, bath tubs, steam rooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Surfaces of walls and floors shall be smooth and shall be constructed of materials which are impervious to water. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bath tubs shall be thoroughly cleaned and sanitized after each use. Whenever necessary in order to insure proper maintenance, floor drains shall be installed.

(h) Clean and sanitary towels and linens shall be provided for each patron of the establishment. No common use of towels or linens shall be permitted.

(i) All employees and massage technicians shall wear clean, non-transparent outer garments whose use is restricted to the massage establishment.

(j) No service described herein as "massage" shall be carried on in any room or area in any massage parlor which is fitted with a door capable of being locked; except, that doors leading to the outside of a building may be locked for security purposes, providing there is no violation of state or county safety rules and regulations. No room or area in any massage parlor shall be fitted with any device commonly referred to as a "one-way mirror."
(k) All massage technicians or employees shall, at all times while engaged in the activities described herein as massage, or any employment related thereto, wear affixed to their outer garment, a suitable name tag, upon which is ascribed their full name as it appears on the permit.

(1) Compliance with all applicable building codes. (Ord. No. 896, § 7.)

Sec. 14.3-15. Display of list of services and costs. Every holder of a permit for a massage establishment shall cause to be displayed, in a conspicuous place readily seen by persons entering the premises, a list of services and the cost of such services provided by the establishment. Any services rendered which are not listed, may be grounds for revocation or suspension of the massage establishment permit and/or the massage technician's permit. (Ord. No. 896, § 10.)

Sec. 14.3-16. Inspections--Establishment. Every person operating a massage establishment shall permit those officials charged with the enforcement of the provisions of this chapter to make inspections at any time the establishment is open for business, in order to verify compliance with the provisions of this chapter.

No permittee shall allow communication devices to be installed or used in any manner on the premises so as to interfere with or hinder inspections by law enforcement officials. (Ord. No. 896, § 10.)

Sec. 14.3-17. Same--Records. Every person, association or corporation operating a massage establishment under the provisions of this chapter shall maintain a record of the date and hour of each massage, and the name of the technician administering such massage. Such records shall be open to inspection by officials charged with the enforcement of these provisions for that purpose. The information furnished or secured as a result of any such inspection shall be confidential. Such records shall be maintained for a period of two years. (Ord. No. 896, § 11.)

Sec. 14.3-18. Employees. (a) Every holder of a permit for a massage establishment, or any employer of persons purporting to act as massage technicians, shall have the responsibility to insure that each person employed as a massage technician has a valid permit pursuant to this chapter.

(b) Every holder of a permit for a massage establishment shall exercise close supervision over the acts of massage technicians or other persons employed on the premises. The acts of
massage technicians or other employees, when in violation of this chapter or any condition of a permit issued hereunder, may constitute grounds for revocation or suspension of the massage establishment permit. (Ord. No. 896, § 12.)

Sec. 14.3-19. Advertising.

It is unlawful for any holder of a permit issued pursuant to this chapter to solicit business other than upon a licensed premises or through newspapers or other advertising media. Advertising shall not be made for any services other than those authorized by the license herein and this chapter. (Ord. No. 896, § 13.)

Sec. 14.3-20. Change of location.

A change of location from the described premises shall require approval of the county, and shall be subject to compliance with all ordinances and regulations of the county, and all other applicable laws. A change of location fee of twenty-five dollars shall be deposited with the sheriff's department. (Ord. No. 896, § 15.)

Sec. 14.3-21. Violations and penalties.

(a) Any violation of any of the provisions of this chapter is a misdemeanor and is punishable by a fine not to exceed five hundred dollars, or by imprisonment in the county jail for a period not to exceed six months, or both.

In the alternative, the district attorney may make application to the superior court for an injunction or any other appropriate order restraining conduct wherein any person carries on or attempts to carry on a massage establishment, or wherein any person attempts to be a massage technician in violation of this chapter. This section shall be cumulative, and shall not prohibit the enforcement of any other applicable law.

The proceedings under this section shall be governed by chapter 3 (commencing with section 525) of Title 7 of Part 2 of the Code of Civil Procedure; except, that no undertaking shall be required and the district attorney shall not be required to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

(b) Any massage establishment operated, conducted or maintained contrary to the provisions of this chapter shall be, and the same is hereby declared to be, unlawful and a public nuisance. (Ord. No. 896, § 22.)

SECTION II.

Pursuant to provisions of Government Code Section 25124(b)(1), a summary of this Ordinance shall be published once, at least FIVE (5) DAYS prior to the meeting of the Board of Supervisors at which the Ordinance is to be finally considered for adoption (second
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reading), and a summary of this Ordinance, with the vote of the members of the Board of Supervisors thereon, shall also be published once before the expiration of FIFTEEN (15) DAYS after adoption of the Ordinance. Both publications shall be in the Daily Republic, a newspaper of general circulation, printed and published in the County of Solano, State of California, and shall be in full force and effect THIRTY (30) DAYS after its passage.

A certified copy of the full text of the proposed ordinance shall be posted in the office of the Clerk to the Board of Supervisors at least FIVE (5) DAYS prior to the meeting of the Board of Supervisors, at which the Ordinance is to be finally considered for adoption (second reading). A certified copy of the final Ordinance shall be posted in the Office of the Clerk of the Board of Supervisors, at least FIFTEEN (15) DAYS after adoption of the Ordinance, and the posting shall include the vote of the supervisors for or against the Ordinance.

ATTEST:

LINDA TERRA, Clerk to the Board of Supervisors

OSBY DAVIS, Chairman of the Board of Supervisors

I, LINDA TERRA, Clerk to the Board of Supervisors of the County of Solano, State of California, do hereby certify that the above and foregoing Ordinance was introduced at a regular meeting thereof held this 2nd day of July, 1991.

On the motion of Supervisor Simmons and the Second of Supervisor Stewart, this Ordinance was adopted at a regular meeting of said Board on the 23rd day of July, 1991, by the following vote:

AYES: SUPERVISORS Caddle, Carroll, Simmons, Stewart and Chairman Davis

NOES: SUPERVISORS None
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ABSTAINED: SUPERVISORS None
ABSENT: SUPERVISORS None

WITNESS my hand and the Seal of said Board this 23rd day of July, 1991.

LINDA TERRA, Clerk to the Board of Supervisors

By Linda Terra, Deputy