AN ORDINANCE PROVIDING FOR THE REGULATION AND LICENSING OF MASSAGE ESTABLISHMENTS

ORDINANCE NO. 896

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

SECTION I. 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.

SECTION II. DEFINITIONS.

A. "Massage" means 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, powder, creams, lotions, ointments, or other similar preparations commonly used in the practice.

B. "Massage Establishment" means (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 Section II.A. of this Ordinance, 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.

C. "Massage Technician" means any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.

D. "Employee" means 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.

E. "Person" means any individual, partnership, corporation, association, or other group, however organized.

SECTION III. EXCEPTIONS.

The provisions of this ordinance shall not be construed to 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 of California, nor shall it apply to any treatment administered in good faith.
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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 of
California.

The provisions of this Ordinance shall not be construed as applying to any bar­
ber or cosmetologist licensed under the Business and Professions Code performing barbering
or cosmetology services.

SECTION IV. ZONING REQUIREMENTS
A massage establishment which is created and operated in accordance with the
provisions of this ordinance shall be located only in those portions of the County of
Solano wherein permitted by applicable zoning.

SECTION V. PERMIT REQUIREMENTS
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 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.

SECTION VI. DISPLAY OF PERMIT
All permits issued pursuant to this ordinance for a massage establishment, and
for massage technicians employed by said establishments, shall be displayed in a conspicu­
ous place so that they may be readily seen by persons entering the premises.

SECTION VII. FACILITY REQUIREMENTS
All massage establishments shall comply with the following requirements.
A. A recognizable and legible sign shall be posted at the main entrance iden­
tifying the premises as a massage establishment;
B. Lighting shall be provided in accordance with the building code and, in
addition, at least ten (10) foot candles of light as measured thirty (30) 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 public health, 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. Heat 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, shall wear affixed
to their outer garment, a suitable name tag, upon which is ascribed their full name as it
appears on the permit.
L. Compliance with all applicable building codes.

SECTION VIII. DISPLAY OF SERVICES
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
so listed, may be grounds for revocation or suspension of the massage establishment permit and
or the massage technician's permit.

SECTION IX. NAME OF BUSINESS
No person subject to the provisions of this Ordinance shall operate under any name
or conduct business under any designation not specified in the permit.

SECTION X. INSPECTION OF BUSINESS
Every person operating a massage establishment shall permit those officials charged
with the enforcement of the provisions of this Ordinance to make inspections at any time the
establishment is open for business, in order to verify compliance with the provisions of this
Ordinance.

No permittee shall allow communication devices to be installed or used in any manner
on the premises as to interfere with or hinder inspections by law enforcement officials.

SECTION XI. INSPECTION OF BUSINESS RECORDS
Every person, association, or corporation operating a massage establishment under
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the provisions of this Ordinance 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. Said records shall be maintained for a period of two (2) years.

SECTION XII. 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 Ordinance.

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 Ordinance or any condition of a permit issued hereunder, may constitute grounds for revocation or suspension of the massage establishment permit.

SECTION XIII. ADVERTISING

It is unlawful for any holder of a permit issued pursuant to this Ordinance 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 Ordinance.

SECTION XIV. SALE OR TRANSFER OF PERMIT

Licenses issued pursuant to this Ordinance are not transferable.

SECTION XV. 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 ($25.00) shall be deposited with the sheriff’s department.

SECTION XVI. PERMIT APPLICATION FEE

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 Solano for one hundred dollars ($100.00) 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 Solano, of fifty dollars ($50.00) 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.
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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 ($5.05), or such other sum as may be fixed from time to time by the Department of Justice of the State of California. Such processing fee shall be paid by either money order or cashier's check, and shall be made payable to the State of California, Department of Justice, for processing non-criminal fingerprint cards by the Department of Justice. This fee shall be in addition to other fees required by this ordinance.

D. All applications made under (a) and (b) above shall be investigated by the Sheriff's Department of Solano County.

SECTION XVII. PERMIT APPLICATION CONTENTS

All applicants for a permit, whether as operator or technician, shall submit the following information:

A. The full name and present address of applicant;
B. The 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;
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 (30) 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 paragraphs A through E of Section XVII, 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 shall provide the data required under paragraphs 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 (10) percent of the active voting stock or interest in the organization shall provide the data required under paragraphs 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 paragraphs A through E above.
G. In addition to the information required of all applicants under paragraph A through E of Section XVII, the following information shall be required of applicants for permits to operate a massage establishment:
   (1) The business license history of the applicant, whether such person in previous operating in this or another city under license has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;
   (2) In addition to the information required of applications under paragraph A through E of Section XVII, the following information shall be required of applicants for permits to operate a massage establishment:
Ordinance No. 896 continued:

(1) The business license history of the applicant, whether such person is previously operating in this or another city or state under license has had such 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 paragraph A through E of Section XVII, 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 (70) 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 (18) years;

SECTION XVIII. PERMIT INVESTIGATION

A. The Sheriff's department may issue a massage permit within fifteen (15) days following application unless it finds:

(1) That the applicant for permit has been convicted of:

(a) An offense involving conduct which requires registration pursuant to Section 290 of the Penal Code;

(b) An offense involving the use of force and violence on the person of another that amounts to a felony.

(c) An offense involving conduct which requires registration pursuant to Section 11590 of the Health and Safety Code;

(d) An offense as defined under Section 311, 314, 315, 316, 318 or 657(b) of the Penal Code of the State of California.

B. The sheriff's department, upon receiving an application for a massage establishment permit, shall refer the application to the building official, the appropriate fire protection district, the public health department and the planning 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 Ordinance, and all other laws which they administer.

SECTION XIX. ISSUANCE OF PERMIT

A. 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:

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

(2) That the premises and the conduct of activities thereon is inimical to the public health, safety, and general welfare;

(3) 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 XVIII Paragraph A, above.
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**SECTION XX. APPEAL**

A. 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 (10) days after the decision of the sheriff's department. Upon receipt of the appeal, the matter shall be set for review within thirty (30) days by the County Board of Supervisors. No rights shall be exercised under any permit until the Board of Supervisors renders its decision.

**SECTION XXI. REVOCATION OR SUSPENSION OF PERMIT**

A permit may be revoked or suspended on any grounds set forth in paragraph 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, 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 (5) 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 heard within thirty (30) days, or as soon thereafter as agreed to by both parties.

Said 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 18 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 (5) 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 Ordinance.

B. The permittee has been convicted of offenses set forth in Paragraph A of Section XVIII above.

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.

**SECTION XXII. VIOLATIONS AND PENALTIES**

A. Any violation of any provisions of this Ordinance is a misdemeanor and is punishable by a fine not to exceed Five Hundred Dollars ($500.00), or by imprisonment in the county jail for a period not to exceed six (6) 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 Ordinance. This section shall be cumulative, and shall not prohibit the enforcement of any other applicable law.
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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 Ordinance shall be, and the same is hereby declared to be, unlawful and a public nuisance.

SECTION XXIII. SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance, or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance, or any part thereof.

SECTION XXIV. PUBLICATION

This Ordinance shall be published once before the expiration of FIFTEEN (15) DAYS after its passage in the Vallejo Times-Herald, a newspaper of general circulation, printed and published in the County of Solano, and shall be in full force and effect THIRTY (30) DAYS after its passage.

/s/ RICHARD BRANN
Chairman of the Solano County Board of Supervisors

ATTEST:

NEIL CRAWFORD, County Clerk and
ex officio Clerk of the Board of Supervisors

by /s/ Garland Dunham
Deputy Clerk

I, NEIL CRAWFORD, County Clerk and ex officio Clerk of 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 on the 25 day of March, 1975.

On the motion of Supervisor Hannigan and seconded by Supervisor Scofield, this Ordinance was adopted at a regular meeting of said Board on the 15 day of April, 1975 by the following vote:

AYES: SUPERVISORS: BRAZELTON, HANNIGAN, HILYARD, SCOFIELD and BRANN

NONE: SUPERVISORS: NONE

ABSENT: SUPERVISORS: NONE

WITNESS my hand and the Seal of said Board this 15 day of April, 1975.

NEIL CRAWFORD, County Clerk

by /s/ Garland Dunham
Deputy Clerk