AN ORDINANCE of the City of Kent, Washington, relating to the licensing of businesses, amending Chapter 5.28, Kent City Code to revise the regulations applicable to massage businesses and operators.

WHEREAS, the City of Kent, pursuant to the police power, has the authority to adopt rules and regulations in order to protect the public health, safety, morals, order and welfare, and;

WHEREAS, businesses carried on within the City are subject to reasonable regulation by the City under its police power, and are subject to licensing as a suitable means of regulation; and

WHEREAS, the massage business is intimately identified with public health and morals, and is subject to reasonable control for the public good; NOW THEREFORE

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 5.28, KCC is amended as follows:

MASSAGE PARLORS, MASSAGISTS

5.28. DEFINITIONS: For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section.

A. "Employee" means any person over eighteen (18) years of age, other than a massage operator, who renders any service in connection with the operation of a massage business or public bathhouse, and receives compensation from the operator of the business or patrons.

B. "Licensee" means the person to whom a license has been issued to own or operate a massage business or public bathhouse as defined herein.
C. "Manager" means any employee appointed by the licensee to manage the premises and the other employees.

D. "Massage" means any method of pressure on or friction against, or stroking, vibrating, or stimulating of the external 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, ointment or other such similar preparations commonly used in the practice of massage.

E. "Public Bathhouse" means any place where baths or facilities for baths of any kind whatever are given or furnished and the term shall include but not be limited to: Finnish Bath; Russian Bath; Sauna Bath; Swedish Bath; Turkish Bath; baths by hot air, steam, vapor, water or electric cabinet; provided, that such term shall not include ordinary tub or shower baths where attendant is not required.

F. "Massage Business" means any establishment having a source of income or compensation derived from the practice of massage as defined in subsection (D) of this section. "Massage Business" includes but is not limited to every massage school, massage parlor, massage therapy clinic, sauna, or bathhouse.

G. "Massage Operator" means any person who, for any consideration whatsoever, engages in the practice of massage as defined in subsection (D) of this section.

H. "Outcall Massage Service" means any business, the function of which is to engage in or carry on the practice of massage at a location designated by the customer or client other than at a licensed massage business.

I. "Patron" means any person who receives a massage under circumstances where the reasonable expectation arises that he or she will pay money or give any other consideration therefore.

J. "Permittee" means a massage operator to whom a massagist's permit has been issued, pursuant to Section 5.
"Person" means any individual, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

5.28. COMPLIANCE. The licensee, massage operators, and (all its) employees shall exercise due diligence to insure compliance with the provisions of this chapter.

5.28. EXEMPTIONS. This chapter shall not apply to:

A. An individual giving massage in their home to members of their immediate family;

B. Persons licensed in this state to practice medicine, surgery, drugless therapy, cosmetology, barbering, physical therapy, osteopathy, osteopathy and surgery, chiropractic, podiatry, nursing, or persons working under prescription, supervision, or direction of any such person;

C. Massage practiced at the athletic department of any institution maintained by the public funds of the state, or any of its political subdivisions;

Massage practiced at the athletic department of any school or college accredited by the Northwest Association of Secondary and High Schools; or public facility maintained by State or other governmental funds.

5.28. LICENSED-REQUIRED.

A. No person shall engage in or carry out the business of massage unless he/she has a valid massage business license issued by the state and the City pursuant to the provisions of this chapter for each and every separate office or place of business conducted by such person.

B. All licenses shall expire on the thirty-first day of December of each year, or part of a year. There shall be no proration of the yearly license fee.
C. The fee for a massage business license and/or renewal of the same shall be and is fixed in the sum of $100 per year.

5.28.050. MASSAGIST’S PERMIT-REQUIRED.

(A) No person shall practice massage within the City as a massage operator or otherwise unless he/she has a valid and subsisting massagist’s permit issued (to him) by the City pursuant to the provisions of this chapter.

(B) No person shall employ as a massage operator any person who does not possess a valid permit issued pursuant to this chapter.

5.28.060. LICENSE-APPLICATION.

(A) Every applicant for a license to maintain, operate, or conduct a massage business or public bathhouse shall file an application under oath with the City upon a form provided by the office of the City Clerk and pay a nonrefundable, non-transferable annual license fee as set forth in KCC 5.28.040, supra. (which shall be one hundred dollars per year or any part thereof. All licenses shall expire on the 31st of December of the year of issue.)

B. Copies of the application shall within five (5) days of receipt thereof by the City Clerk be referred to the Planning, Building and Fire Departments. The departments shall within thirty (30) days inspect the premises proposed to be operated as a massage business or public bathhouse, and shall make written verification to the office of the City Clerk concerning compliance with the codes of the City. (that they administer.) The application shall further be referred to the Police Department for a criminal records check and verification of the information provided by the applicant on his/her application for a license.

C. Each application shall contain the following information:
1. A description of the nature of the business to be conducted, including a definition of services to be provided;

2. The location, mailing address and all telephone numbers where the business is to be conducted;

3. The name, telephone number and residence address of each applicant; (hereinafter all provisions which refer to) provided that "applicant" shall include (an) applicants which may be (a) corporations or partnerships;

   (4) a. If the applicant is a corporation, the names, telephone number and residence addresses of each of the officers and directors of the corporation and of each stockholder owning more than ten percent of the stock of the corporation and the address of the corporation itself, if different from the address of the massage business or public bathhouse;

   (5) b. If the applicant is a partnership, the names, telephone number and residence addresses of each of the partners including limited partners, and the address of the partnership itself, if different from the address of the massage business or public bathhouse;

   (Subsections (6) through (19) of this subsection apply to all persons required to be identified by subdivisions (4) and (5) of this subsection as well as to individual applicants.)

   (6) 4. (Previous) Addresses of the applicant for the five (5) year period immediately prior to the date of application.

   (7) 5. Proof that the applicant is at least eighteen (18) years of age;

   (8) 6. Copy of identification such as driver's license, birth certificate, visa or identification card;
7. Copy of the applicant's social security card;

(9) 8. Two (2) portrait photographs of the applicant as prescribed by the Chief of Police and a complete set of applicant's fingerprints which shall be taken by the Chief of Police or his designee. If the applicant is a corporation, one portrait photograph as prescribed by the Chief of Police of all officers and managing agents of the corporation and a complete set of the same officers' and agents' fingerprints which shall be taken by the Chief of Police or his designee. If the applicant is a partnership, one front-face portrait photograph as described above of each partner, including a limited partner in the partnership, and a complete set of each partner or limited partner's fingerprints which shall be taken by the Chief of Police or his designee;

(10) 9. A description of the business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application;

(11) 10. The massage or similar business license history of the applicant; whether such person, in previously operating in this or another city or state, has had a business license revoked or suspended, the reason therefor and the activity or occupation subsequent to such action of suspension or revocation;

(12) 11. All criminal convictions or forfeitures other than parking offenses or traffic violations, including the dates of convictions, nature of the crimes, name of court and disposition for each owner, partner or corporation;

(13) 12. The name and address of each massage operator who is or will be employed in the establishment;

(14) 13. A valid and current massage operator's license issued by the State of Washington in accordance with the provision of RCW 18.108 or WAC 308-51.

(15) 14. The name and address of any other massage business, bathhouse or other establishment owned or operated by any person whose name is required to be given in the
subdivisions (3) through (5) of this subsection) the applicant, as defined in subsection 3 of this section wherein the business or profession of massage is carried on;

((16. A description of any other business owned or controlled by the applicant;))

((17)) 15. Authorization for the City, its agents and employees to seek information (and conduct an investigation into the truth of the) to confirm any statements set forth in the application; (and qualifications of the applicant for the permit;)

((18)) 16. (Such other) Supplemental identification and/or information necessary to (discover the truth of the) confirm matters (specified as required to be) set forth in the application;

((19. The names, telephone number and current addresses and written statements of at least three (3) bonafide permanent residents of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the city, then the county, then the state and lastly from the rest of the United States. These references must be persons other than relatives, business associates or other applicants.)

5.28.((20))070. MASSAGIST'S PERMIT - APPLICATION.

A. Application for a massagist's business permit shall be made to the office of the City Clerk in the same manner as provided for massage business or public bathhouse licenses. It shall be accompanied by the annual nonrefundable, nontransferable massage operator's permit fee of seventy-five dollars per year. There shall be no proration of the yearly permit fee. A separate permit shall be obtained ((or part thereof)) for every establishment at which the applicant will practice.

B. The application shall contain but not be limited to the following:
1. The business address and all telephone numbers where massage is to be practiced;

2. Full name, telephone number and residence address, including previous addresses for five (5) years immediately prior to the date of application specifying the period of residence at each address;

3. Social Security Number, Driver's license number, if any, and date of birth;

4. Written documentation of the applicant's age to indicate the applicant is at least eighteen (18) years of age;

5. A complete statement of all convictions of the applicant for any felony or misdemeanor violations, except minor traffic violations;

6. Fingerprints of the applicant taken by the Police Department;

7. Two front-face portrait photographs taken at the time of application as prescribed by the Chief of Police.

8. A description of the applicant's principal activities or services to be rendered;

9. The names and addresses of employers for the three (3) year period immediately prior to the date of application, including the period of employment.

10. A list of massage operator permits or massage business licenses which the applicant has been issued or currently holds, including the name of the issuing jurisdiction, the date of issuance, expiration and whether any such license or permit was denied, revoked or suspended and the reason therefor. The list
shall also include any applications which were denied. ((and the business activities or occupations subsequent to such action of denial, suspension, or revocation. All relevant business addresses and telephone numbers must be provided;))

((The names, telephone numbers, current addresses
and written statements of at least three (3) bonafide permanent
residents other than relatives of the United States that the
applicant is of good moral character. If the applicant is able,
the statement must first be furnished from residents of the city,
then the county, then the state and lastly from the rest of the
United States;))

((A medical certificate signed by the physician,
licensed to practice in ((the state))) Washington, issued within
seven (7) days of the date of the application. The certificate
shall state that the applicant is free of communicable disease.

((Such other)) Supplemental information,
identification and physical examination of the ((person)) appli-
cant deemed necessary by the Police Chief in order to ((discover
the truth of the matters hereinbefore required to be)) confirm any
statement set forth in the application;

Authorization for the city, its agents and
employees to ((seek information and conduct an investigation into
the truth of the)) investigate and confirm any statements set
forth in the application; ((and the qualifications of the appli-
cant for the permit;))

Sworn written declaration by the applicant,
under penalty of perjury, that the ((foregoing)) information
contained in the application is true and correct; ((the declara-
tion being duly dated and signed;))

A copy of a valid massage operator's license
from the State of Washington. ((must be provided with applica-
tion;))

5.28.((32))080. LICENSE OR PERMIT - ISSUANCE. The City
Clerk shall issue a license for a massage business or public
bathhouse, or a permit for a massage operator, (after notification by the involved departments of the City, that all requirements for a massage business or massage operator's permit described in this chapter have been met unless it finds:) upon verification of the Departments set forth in KCC 5.28.060, supra, unless:

((a)) A. The ((correct)) permit or license fee has not been tendered to the City or, in the case of a check or bank draft, has been dishonored upon presentation;

((b)) B. The operation as proposed by the applicant ((if permitted)) does not comply with all applicable laws, including but not limited to building, zoning and health codes.

((c. The applicant, if any individual, or any of the stockholders holding more than ten percent of the stock of the corporation, any of the officers and directors, if the applicant is a corporation, or any of the partners including limited partners, if the applicant is a partnership, and the manager or other person principally in charge of the operation of the business, have been convicted of any of the following offenses or convicted of an offense without the state that would have constituted any of the following offenses if committed within the state:

1. An offense involving the use of force and violence upon the person of another that amounts to a felony;

2. An offense involving sexual misconduct;

3. An offense involving narcotics, dangerous drugs or dangerous weapons that amounts to a felony.

The City may issue a license or permit to any person convicted of any of the crimes described in subdivisions (1) through (3) of this subsection if it finds that such conviction occurred at least five (5) years prior to the date of the application, and the applicant has had no subsequent felony convictions of any nature, and no subsequent misdemeanor convictions for crimes mentioned in this section.))
C. The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the permit application or in any document required by the City in conjunction therewith.

The applicant has had a massage business, public bathhouse, massage operator, or other similar permit or license denied, revoked or suspended by the City or any other state or local agency within five (5) years prior to the date of this application.)

D. The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business is not over the age of eighteen (18) years.

5.28.((36))090. LICENSE OR PERMIT-APPLICATION-APPROVAL OR DENIAL. Upon written notice of appeal filed with the City Clerk within ten days of denial of a license or permit by the City Clerk, the City Council or its duly authorized committee shall act to approve or deny an application for a license or permit under this chapter within a reasonable period of time, and in no event shall the City Council or duly authorized committee act to approve or deny the license or permit later than ninety (90) days from the date that the notice of appeal was filed with the City Clerk.

5.28.((40))100. LICENSE - NONTRANSFERABLE. No license or permit shall be transferable.

5.28.((44))110. LICENSE - POSTING AND DISPLAY.

A. Every massage operator shall post his/her permit ((required by this chapter)) in his/her work area so it is readily available for public inspection.

B. Every person, corporation, partnership, or association licensed under this chapter shall display such license in a prominent place. The name of the manager on duty shall be prominently posted during business hours.
5.28.(40)120. LICENSE-MULTIPLE LOCATIONS. Should any massage business or public bathhouse have more than one location where the business of massage is pursued, a permit stating both the address of the principal place of business, and the other location(s) shall be issued by the City Clerk upon the tender of a license fee of one hundred dollars for each location. Licenses issued for such locations shall terminate on the same date as that of the principal place of business, regardless of the date of issuance.

5.28.(42)130. LICENSE-NAME OF BUSINESS AND PLACE OF BUSINESS. No person granted a license pursuant to this chapter shall operate the massage business or public bathhouse under a name not specified in his license, nor shall he/she conduct business under any designation or location not specified in his/her license.

5.28.(46)140. LICENSE-REVOCATION OR SUSPENSION. Any license issued for a massage business or public bathhouse may be revoked or suspended by the City Council after notice of not less than ten (10) days, and a hearing for good cause, or in any case where any of the provisions of this chapter are violated, or where any employee of the licensee is engaged in any conduct which violates any state or local laws or ordinances at licensee's place of business and of which the licensee has actual or constructive knowledge. Such permit may also be revoked or suspended by the City after notice and hearing, upon the recommendations of the county health department that such business is being managed, conducted, or maintained without regard to proper sanitation and hygiene.

5.28.(46)150. PERMIT-REVOCATION OR SUSPENSION. A massage operator permit issued by the City Clerk shall be revoked or suspended where it appears that the operator ((has been convicted of any offense which would be cause for denial of a permit upon an original application,)) has made a false statement on an application for a permit, or has committed an act in violation of this chapter.

5.28.(46)160. LICENSE-SALE, TRANSFER, OR RELOCATION. Upon sale, transfer or relocation of a massage business or public
bathhouse, the license therefore shall be null and void unless approved provided in Section 5.28.050; provided, however, that upon the death or incapacity of the licensee or any co-licensee of the massage business or public bathhouse, any heir or devisee of a deceased licensee, or any guardian of an heir or devisee or a deceased licensee may continue the business of the massage business or public bathhouse of a reasonable period of time not to exceed sixty (60) days to allow for an orderly transfer of the license.

5.28.((68))170. HOURS OF BUSINESS. No massage business or public bathhouse shall be kept open for any purpose between the hours of ten p.m. and eight a.m.

5.28.((76)) EMPLOYEES-REGISTER. Every massage business or massage bathhouse shall be open for inspection during all business hours and at other reasonable times by police officers, health and fire inspectors and duly authorized representatives of the City upon the showing of proper credentials by such persons.))

5.28. ((76))180. The licensee or ((person) manager (designated by the licensee)) of a massage business or public bathhouse shall maintain a register of all persons employed ((at any time)) on the premises, including but not limited to massage operators and their permit numbers. ((Such)) The register shall be available at the massage business or public bathhouse to representatives of the City during regular business hours.

5.28.((69))190. PERSONS UNDER AGE EIGHTEEN PROHIBITED ON PREMISES. No person shall permit any person under the age of eighteen (18) years to come or remain on the premises of any massage business or public bathhouse, as massage operator, employee or patron.

5.28.((64))200. UNLAWFUL ACTS. ((A)) It is unlawful for any person in a massage business or public bathhouse to place his or her hand or hands upon, (to) touch with any part of his or her body, (to) fondle in any
manner or (to) massage a sexual or genital part of any other person.

{(b) B.} It is unlawful for any person in a massage business or public bathhouse to expose or permit to be exposed his or her sexual or genital parts, or any portion thereof, to any other person.

{(c) C.} It is unlawful for any person, while in the presence of the other person in a massage business or public bathhouse, to fail to conceal with a fully opaque covering, the sexual or genital parts of his or her body.

{(d) D.} It is unlawful for any person owning, operating or managing a massage business or public bathhouse knowingly to cause, allow or permit in or about such massage business or public bathhouse, any agent, employee, or any other person under his control or supervision to perform such acts prohibited in subsections (A), (B), (C) or (F) of this section.

{(e) E.} It is further unlawful for any permittee under this chapter to administer massage on an outcall basis within the City of Kent. Such persons shall administer massage solely within an establishment licensed to carry on such business under this chapter. (Any violation of these provisions shall be deemed grounds for revocation of the permit granted under the provisions of this chapter.) The restriction on outcall massage shall not apply to a permittee who performs outcall massage as defined in this chapter upon a customer or client who because of reasons of physical defects or incapacities or due to illness is physically unable to travel to the massage business or public bathhouse. (Any unauthorized disclosure or use of such information by an employee of the business or the City is unlawful.)

{(f) F.} It is unlawful for any massage service to be carried on within any cubicle, room, booth, or any area within a massage business or public bathhouse which is fitted with a door capable of being locked.

5.26. {1010} PUBLIC NUISANCE. Any massage business operated, conducted or maintained contrary to the provisions of
this Chapter or any law of the City or State of Washington shall be, and the same hereby is, declared to be unlawful and a public nuisance and the City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder commence an action or actions for the abatement, removal and enjoinder thereof, in the manner provided by law; and (the) shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relieves as will abate or remove such massage business or public bathhouse, and restrain and enjoinder any person from operating, conducting or maintaining a massage business or public bathhouse contrary to the provisions of this Chapter.

5.28.(92)220. OPERATING REQUIREMENTS.

(a) A. Every portion of the massage business or public bathhouse, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.

(b) B. Price rates for all services shall be prominently posted in the reception area in a location available to all prospective patrons.

(c) C. All employees, including massage operators shall be clean and wear clean nontransparent outer garments covering the sexual and genital areas as a minimum. (whose use in restricted to the massage business or public bathhouse.)

(d) D. Each massage business or public bathhouse shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.

(e) E. No massage business or public bathhouse, granted a license under the provisions of this chapter shall place, publish or distribute or cause to be placed, published or distributed any advertisement, picture, or statement which is false, deceptive, or misleading in order to induce any person to purchase or utilize any professional massage services.

5.28.(96)230. BUILDING REQUIREMENTS. No license to conduct a massage business or public bathhouse, shall be issued
unless an inspection by the Building Official reveals that the establishment complies with each of the following minimum requirements:

((a)) A. Construction of rooms used for toilets, tubs, steam baths and showers shall be installed in accordance with ((Chapter 1711)), the Uniform Building Code, ((1979)) 1982 Edition or as the same may be hereafter amended.

((b)) B. Steam rooms and shower compartments shall be installed in accordance with ((Chapter 1711)), the Uniform Building Code, ((1979)) 1982 Edition or as the same may be hereafter amended.

((c)) C. Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sewer; exception: Dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.

((d)) D. A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.

((e)) E. The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.

((f)) F. Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.

((g)) G. Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for every twenty or more employees or patrons of that sex.
on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

((H)) I. Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories and washbasins shall be provided with soap and single service towels.

((I)) J. All electrical equipment shall be installed in accordance with the requirements of the State Department of Labor and Industry Electrical Code.

((J)) K. A separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and be self closing.

((K)) L. All doors or doorway coverings within a massage business or public bathhouse shall have an unobstructed opening six inches by six inches in size capable of clear two-way viewing into and out of all cubicles, rooms or booths. The opening shall be not less than four and one-half feet from the floor of the establishment nor more than five and one-half feet from the floor. Toilets and cubicles used solely for the application of liquid vapor baths shall have no such opening in the covering door or curtain, but shall be clearly marked as to purpose on the exterior door or curtain of the cubicle, room or booth.)

K. Nothing contained in this chapter shall be construed to eliminate other requirements of statute or ordinance concerning and maintenance of premises, nor to preclude authorized inspection thereof, whenever such inspection is deemed necessary by the police or health departments.

5.28,((100))240. VIOLATION-PENALTY. Every person, except those persons who are specifically exempted by this chapter, whether acting as an individual owner, ((employee of the owner)) operator, ((or)) employee ((of the operator)) or ((whether acting as a mere)) agent or independent contractor of the owner, employee or operator, or acting as a participant or worker in any way directly or indirectly who gives massages or
operates a massage business or public bathhouse, or any of the services defined in this chapter without first obtaining a license or permit and paying a fee to do so from the City, or who violates any provisions of this chapter, shall be guilty of a misdemeanor. Upon conviction such person shall be punished by a fine not to exceed five ((~hundred)) thousand dollars, or by imprisonment for a period not to exceed ((six)) twelve months, or by both such fine and imprisonment.

Section 2. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivisions, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of the ordinance, or the validity or its application to other persons or circumstances.

Section 3. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and confirmed.

Section 4. Effective Date. This ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication as provided by law.

ATTEST:

MARIE JENSEN, CITY CLERK

APPROVED AS TO FORM:

P. STEPHEN DIJULIO, CITY ATTORNEY

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PASSED the ___ day of ____________, 1985.
APPROVED the ___ day of ____________, 1985.
PUBLISHED the ___ day of ____________, 1985.

I hereby certify that this is a true copy of Ordinance No. ___ passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

MARIE JENSON, CITY CLERK