ORDINANCE NO. 2976

AN ORDINANCE of the City of Kent, Washington, establishing Chapter 5.27 of the Kent City Code and repealing Chapter 5.28 Ord 2558 revising the regulations applicable to massage parlors and bathhouses.

WHEREAS, Chapter 5.28 of the Kent City Code previously established regulations and procedures relating to the licensing and operation of massage parlors and bathhouses; and

WHEREAS, the City Council recognizes the growth of legitimate licensed massage therapy and seeks to distinguish these practitioners from the area of adult entertainment; and

WHEREAS, the City Council wishes to establish Kent City Code Chapter 5.27 to distinguish between massage parlors and bathhouses and other types of massage therapy; NOW, THEREFORE,

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

Section 1. New Chapter. Chapter 5.27 of the Kent City Code is hereby established to read as follows:

CHAPTER 5.27
MASSAGE PARLORS AND BATHHOUSES

5.27.010. Definitions. For the purpose of this chapter and unless the context plainly requires otherwise, the following definitions are adopted:
A. "Massage" means any method of treating the body by rubbing, kneading or manipulation and may include the methods of effleurage, petrissage, tapotement, tapping, compressions, vibration, friction, nerve stokes, and Swedish gymnastics or movements either by manual means, as they relate to massage, with or without the aids of superficial heat, cold, water, lubricants, or salts.

B. "Massage practitioner" means any person, except those excluded by 5.27.040 who engages in the practice of massage as defined in subsection (A) of this section.

C. "Massage premises" means any place, except a home where only residents therein are treated, where massage is given or furnished.

D. "Public bathhouse" means any place open to the public where Russian, Turkish, Swedish, hot air, vapor, electric cabinet or other baths of any kind are given or furnished; provided that such term shall not include ordinary tub baths where an attendant is not required.

E. "Reducing salon" means any place which utilizes mechanical equipment as the exclusive means of treating the body as distinguished from treatment by rubbing, kneading, or manipulation by another person.

5.27.020. LICENSE - REQUIRED.

A. No person shall engage in or carry out the business of massage parlor or bathhouse 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 reducing salon or public bathhouse license is Two Hundred Forty Dollars ($240.00) per year; the fee for massage premises is Eighty Dollars ($80.00) per year.

D. No such license shall be granted for any massage premises, public bathhouse or reducing salon until inspection and report by the Planning and Fire Departments as to the compliance with City codes is made to the City Clerk. Massage premises, public bathhouses, and reducing salons must be similarly inspected at least once a year when renewal of a license is requested, and must at all times be open to inspections by the City as to sanitary conditions and to enforce compliance with the provisions of this chapter.

E. Original application for such license shall be made and original licenses issued in the following manner and the application shall include the following information:

1. The name, home address, home telephone number, date and place of birth, and social security number of the applicant if the applicant is an individual;

2. The business name, address and telephone number of the establishment;
3. The names, addresses, telephone numbers, and social security numbers of any partners, corporate officer or directors, or other persons who have management responsibilities in connection with the business, specifying the responsibilities of each;

4. Terms of any loans, leases, secured transactions and repayments therefore relating to the business.

F. All applications for a massage business/public bathhouse shall be submitted in the name of the person or entity proposing to conduct such massage business/public bathhouse on the business premises and shall be signed by such person or his agent and notarized or certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the City Clerk, which shall require the following information:

G. It is unlawful for the owner, proprietor, manager, or such person in charge of any public bathhouse or reducing salon to employ in such place any person who is not at least eighteen (18) years of age and of good moral character.

H. It is unlawful for the owner, proprietor, manager, or such person in charge of any massage premises to employ in such place any person who is not at least eighteen (18) years of age.

I. It is unlawful to advertise the giving of massages or public baths by an establishment, massage practitioner or other person not licensed pursuant to this subtitle.

J. A record of all massage treatments showing the date given, the name and address of the recipient, and the name and
address of the massage practitioner shall be kept and be open to
inspection by the Police Department and Code Enforcement
inspectors at all times.

5.27.030. MASSAGE PRACTITIONER’S LICENSE.

A. Application for a massage practitioner’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 practitioner’s permit fee of Fifth
($50.00) Dollars per year and proof of a valid Washington State
license. There shall be no proration of the yearly permit fee. A
separate permit shall be obtained for every establishment at which
the applicant will practice.

B. The application shall contain but not be limited to the
following:

1. The applicant’s name, home address, home
telephone, date and place of birth;

2. A letter indicating the applicant will be
self-employed, or a letter from the owner of the business
indicating intent to employ or sponsor the applicant; and

3. Written proof that the applicant is eighteen
years of age or older. Written proof shall mean the following:

a. A motor vehicle operator’s license issued by
any State bearing the applicant’s photograph and date of birth;
b. An identification card issued by the State of Washington which bears the applicant’s photograph and date of birth; or

c. A passport.

4. Written proof that the applicant has obtained a current massage practitioner’s license pursuant to RCW 18.108.

C. Applications will be submitted to a background check in accordance with the procedures of the law enforcement authority for the City.

D. A license shall be issued within four weeks of receipt of a completed application form and the license fee, provided that there are no grounds to deny the license pursuant to this ordinance.

E. Massage Practitioner. All applications for a massage practitioner’s license shall be signed by the applicant and notarized or certified to be true under penalty of perjury.

5.27.040. EXEMPTIONS. This chapter shall not apply to:

A. Licensed massage practitioners licensed by the State before September 1, 1988, who also hold a valid and current massage operator’s license issued by the City of Kent, who are performing services within their authorized scope of practice.

B. Licensed massage practitioners originally licensed by the State on or after September 1, 1988, and who are performing services within their authorized scope of practice.
C. The practice of a profession by individuals who are licensed, certified or registered under the laws of the State, other than Chapter 18.108 RCW pertaining to licensed massage practitioners, and who are performing services within their authorized scope of practice.

D. Massage practiced at the athletic department of any school or college approved by the State Department of Licensing by rule using recognized national professional standards.

E. An individual giving massages in their home to members of their immediate family.

F. Physicians, surgeons, chiropractors, osteopaths, acupuncturists, or physical therapists who are duly licensed or certified to practice their respective professions in the State of Washington.

G. Persons practicing massage under the direct supervision of physicians, surgeons, chiropractors, osteopaths, or physical therapists duly licensed by the State of Washington. Direct supervision shall mean that the massage is given on the premises of or in the presence of such physicians, surgeons, chiropractors, osteopaths, or physical therapists.

H. Nurses who are registered as such under the laws of the State of Washington and who act under the direction and control of a duly licensed physician.

I. Persons authorized by the laws of this State as barbers and cosmetologists, provided that such massage as is practiced is within their authorized scope of practice.
J. Massage practiced at the athletic department of any institution maintained by the public funds of the State, or any of its political divisions.

K. Massage practiced at the athletic department of any school or college accredited by the Northwest Association of Secondary and Higher Schools.

5.27.050. LICENSE OR PERMIT - ISSUANCE. The City Clerk shall issue a license for a massage business or public bathhouse, or a permit for a massage practitioner upon verification of the Departments set forth in KCC 5.27.020, supra, unless:

A. The 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. The operation as proposed by the applicant does not comply with all applicable laws, including but not limited to building, zoning and health codes.

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.

5.27.060. EFFECT OF LICENSE DENIAL. If any applicant has his or her license denied pursuant to Section 5.27.050 of this ordinance, a license may not be granted within three years from the date of such denial provided such denial was based on a conviction classified as a felony. Convictions as a result of misdemeanors will preclude the issuance of a license under this
ordinance for a period of at least one year from the date of such
denial. All applicants must comply with all application
procedures pursuant to this ordinance.

5.27.070. LICENSE - NONTRANSFERABLE. No license or
permit shall be transferable.

5.27.080. LICENSE - POSTING AND DISPLAY.

A. Every massage practitioner shall post his/her permit
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.

5.27.090. 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 ($100.00) 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.

5.27.100. 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.
5.27.110. LICENSE REVOCATION OR SUSPENSION. A massage business license issued by the City Clerk shall be revoked or suspended where it appears that the operator has made a false statement on an application for the license, or has committed an act in violation of this chapter. The license shall not be reinstated for six months.

5.27.120. 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.

5.27.130. HOURS OF BUSINESS. No massage business or public bathhouse shall be kept open for any purpose between the hours of 10 p.m. and 8 a.m.

5.27.140. 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, touch with any part of his or her body, fondle in any manner or massage a sexual or genital part of any other person.

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. 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. 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. 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. 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.

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.
5.27.150. OPERATING REQUIREMENTS.

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

C. All employees, including massage operators, shall be clean and wear clean nontransparent outer garments covering the sexual and genital areas as a minimum.

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. 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.

5.27.160. 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. Construction of rooms used for toilets, tubs, steam baths and showers shall be installed in accordance with the Uniform Building Code, 1982 Edition or as the same may be hereafter amended.

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

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

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

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

5.27.170. VIOLATION – PENALTY. Every person, except those persons who are specifically exempted by this chapter, whether acting as an individual owner, operator, employee, or
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 thousand dollars ($5,000.00), or by imprisonment for a period not to exceed twelve (12) 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 circumstances 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 thirty (30) days from and after its passage, approval and publication as provided by law.

DAN KELLEHER, MAYOR

- 15 -
ATTEST:

Brenda Jacober
BRENDA JACOBER, ACTING CITY CLERK

APPROVED AS TO FORM:

ROGER A. LUBOVICH, CITY ATTORNEY

PASSED the 19 day of March, 1991.
APPROVED the 20 day of March, 1991.
PUBLISHED the 22 day of March, 1991.

I hereby certify that this is a true copy of Ordinance No. 2976, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

Brenda Jacober (SEAL)
BRENDA JACOBER, ACTING CITY CLERK

9360-330