

**CITY OF HUNTINGTON BEACH
LEGAL NOTICE**

**ORDINANCE NO. 4049
Adopted by the City Council on APRIL 06, 2015**

“AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 5.24 OF THE HUNTINGTON BEACH MUNICIPAL CODE RELATING TO MASSAGE ESTABLISHMENTS”

SYNOPSIS:

In November, 2009, the City Council approved regulatory changes with regard to massage establishments to comply with newly enacted state law resulting in California Business and Professions Codes 4600, et seq. These laws significantly reduced local governments' regulatory authority in licensing, permitting, and land use by the formation of a State operated, non-profit agency with legislative oversight called the California Massage Therapy Council (CAMTC). Most of the licensing and monitoring responsibilities were transferred from the City to the State with the goal of achieving consistency in the application of rules and regulations with respect to business individuals involved in the massage therapy field. The changes approved by the City Council included modifications to the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) and Municipal Code Chapter 5.24 to bring the City's regulations into compliance with State Law.

In April 2013, the City Council approved further changes to the Huntington Beach Municipal Code, Chapter 5.24 with regard to the regulation of massage establishments. These changes were necessitated by the substantial increase in the number of massage establishments in Huntington Beach as well as the existing regulatory scheme proving to be largely ineffective. The number of massage establishments located in Huntington Beach had grown from nine (9) to sixty five (65) during that time period. Based on information from the Police Department, illicit sexual activity taking place in massage establishments had also increased dramatically, as had the potential for human trafficking often associated with the illicit sex trade.

In spite of the changes made to the Huntington Beach Municipal Code in April 2013, the number of massage establishments has continued to increase to over seventy (70). The Police Department has recent information indicating illicit sexual activity is still taking place in massage establishments in Huntington Beach. While these changes in the Municipal Code increased the city's ability to regulate massage establishments, changes to the law governing massage establishment regulation were necessary in order to provide the city more meaningful ability to regulate their operation and zoning.

In September 2014, changes were enacted to the sections of the Business and Professions Code that regulate massage establishments (Sections 4600 et seq.). These changes were the result of considerable effort by a multitude of municipal staff members from across the state, along with Huntington Beach, the California League of Cities Staff, and state legislators who ultimately crafted Assembly Bill 1147. The Legislative Counsel's Digest stated, *“It is the intent of the Legislature that broad control over land use in regulating massage establishments be vested in local governments so that they may manage those establishments in the best interests of the individual community, and that the requirements and practice of the profession of massage therapy remain a matter of statewide concern, regulation and oversight.”*

With the ability to enforce additional reasonable controls the Planning, Finance, and Police Departments worked with the City Attorney's Office to draft a proposal to provide for additional regulation of massage establishments to the extent now allowable under state law. Some provisions previously removed from our Massage Ordinance have been placed back into the proposed ordinance. Other provisions have been developed based on past experience and still others have been borrowed from cities facing similar challenges in regulating the operation of massage establishments.

The ordinance contains, but is not limited to, some of the below listed provisions:

Additional Establishment Registration Certificate Approval Requirements

- New massage establishments cannot be located within 1,000 ft. of existing establishment.
- Existing establishments within 1,000 ft. are not required to relocate.
- Establishments within 1,000 ft. of each other may not transfer ownership.

Modified Operational Conditions

- All certificate holders must wear their CAMTC issued identification card on the outside of their clothing and in plain view as a name badge at all times while on the premises. All non-CAMTC certified employees of the establishment or independent contractors working at the establishment must wear a name badge displaying their true and complete name on it at all times while on the premises.
- Reduced operating hours from 8:00 AM -11:00PM to 9:00 AM to 10:00 PM.
- Modified the clothing requirements of massage practitioners to match new statute.
- Required the establishment manager to be on-site during all business hours.
- Clarified the establishment shall not be used for residential or sleeping purposes.
- Clarified only the owner, employees, and patrons are allowed in the establishment during operating hours. Friends, family, and visitors are not allowed in the premises while it is open for business.
- Required a notice regarding privacy to be posted in each establishment.
- Required a Human Trafficking Notice to be posted in establishment.
- Required that a list of services offered be posted in each establishment.
- Clarified that in order to perform massage on the breasts of a female patron the establishment must have written consent from the patron and a referral for such treatment from a licensed California health care provider.
- Prohibited sexually suggestive advertising and the use or possession of adult oriented merchandise including condoms.

Added to the conditions under which an Establishment Registration Certificate may be Suspended or Revoked

- Increased the amount of time a property owner may be restricted from renting to a massage establishment which has had its Establishment Registration Certificate (ERC) revoked or surrendered due to misconduct from 12 months to 24 months.

Reapplication for ERC after denial

- Changes the reapplication period from 12 months to 24 months.

Upon adoption of the amended ordinance, all existing massage establishment owners conducting business in the City of Huntington Beach will have to comply with all operational requirements of this chapter. Upon initial application for a new establishment or a request for renewal for an existing establishment, those locations will be required to comply with the new conditions of application for an Establishment Registration Certificate.

City Staff who worked on these ordinance modifications believe the requirements and conditions of this chapter are reasonably necessary to protect the health, safety and welfare of the citizens of the City. The restrictions in this chapter are intended to reduce the burden of massage establishment regulation on city staff, as well as discourage massage establishments from degenerating into houses of prostitution. The means utilized in this chapter bear a reasonable and rational relationship to the goals we seek to achieve.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting held April 6, 2015 by the following roll call vote:

AYES: Posey, O'Connell, Katapodis, Hardy, Sullivan, Delgleize, Peterson

NOES: None

ABSTAIN: None

ABSENT: None

THE FULL TEXT OF THE ORDINANCE IS AVAILABLE IN THE CITY CLERK'S OFFICE.

This ordinance is effective 30 days after adoption.

**CITY OF HUNTINGTON BEACH
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JOAN L. FLYNN, CITY CLERK**