

ORDINANCE NO. 2380

AN ORDINANCE OF THE CITY OF REDLANDS AMENDING CHAPTER 5.28 OF THE REDLANDS MUNICIPAL CODE RELATING TO MASSAGE ESTABLISHMENTS AND RESCINDING ORDINANCE NO. 2363

THE CITY COUNCIL OF THE CITY OF REDLANDS DOES ORDAIN AS FOLLOWS:

Section 1. The text of Chapter 5.28 of the Redlands Municipal Code relating to regulations governing massage establishments is hereby deleted in its entirety and rewritten to read as follows:

CHAPTER 5.28

REGULATIONS FOR MASSAGE ESTABLISHMENTS

Sections

- 5.28.010 Purpose.
- 5.28.020 Definitions.
- 5.28.030 Permit required -- Massage establishment, off-premises massage service, massage practitioner.
- 5.28.040 Business tax requirement.
- 5.28.050 Permit not required.
- 5.28.060 Massage establishment, off-premises massage service permit application.
- 5.28.070 Massage establishment and off-premises operating requirements.
- 5.28.080 Massage establishment facilities regulations.
- 5.28.090 Inspection by officials.
- 5.28.100 Permits non-assignable.
- 5.28.110 Change of location or name.
- 5.28.120 Massage practitioner -- Permit required.
- 5.28.130 Massage practitioner permit application.
- 5.28.140 New massage practitioners -- notification.
- 5.28.150 Renewal of permits -- massage establishment, off-premises massage service, massage practitioner.
- 5.28.160 Application of regulations to existing massage establishments, off-premises massage services, and massage practitioners.
- 5.28.170 Prohibited conduct.
- 5.28.180 Suspension of revocation hearing.
- 5.28.190 Appeal procedure.
- 5.28.200 Burden of proof.
- 5.28.210 Public nuisance.

5.28.010 Purpose. In enacting these regulations, the City Council recognizes that massage is a viable professional field offering the public valuable health and therapeutic services. It is the purpose and intent of the City Council that legitimate massage businesses be protected by this ordinance. In addition, it is also the intent of the City Council that the operation of massage establishments, off-premises massage services and persons offering massage be regulated in the interests of public health, safety and welfare by providing minimum building sanitation and health standards and to ensure that persons offering massage shall possess the minimum qualifications necessary to operate such businesses and to perform such services offered. It is further the intent of this Chapter to enact regulations to ensure that those offering massage services are qualified and trained and can be expected to conduct their work in a lawful and professional manner. The City Council finds that existing controls have not satisfactorily addressed or regulated serious police problems and regulated the profession so as to discourage the use of the profession for objectionable and illegal purposes.

5.28.020 Definitions. Unless the particular provision or the context otherwise requires, the following meanings shall apply to words and phrases used in this Chapter:

A. "Applicant" shall mean the permit applicant and each of the following persons: the managing responsible officer/employee, a general partner, a limited partner who owns or controls twenty percent or more of the business, a shareholder who owns or controls twenty percent or more of the shares.

B. "Employee" means any and all persons, other than a massage practitioner, employed by the massage establishment who may render any service to the permittee, and who receives compensation from the establishment and who has no physical contact with the customers or clients. The term "employee" shall include independent contractors who are regularly employed by the establishment and who work at the massage establishment.

C. "Massage" means any method of treating the external parts of the body for any form of consideration (whether for the massage, as part of a membership, as part of other services or a product, or otherwise) by means of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding or stimulating the external parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances, or with or without supplementary aids, such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments or other similar preparations commonly used in this practice, or by baths, including but not limited to Turkish, Russian, Swedish, Japanese, vapor, show, electric tub, sponge, mineral, fomentation or any other type of bath.

D. "Massage establishment" means any establishment having a fixed place of business where any person, firm, association, partnership or corporation engages

in, conducts or carries on, or permits to be engaged in, conducted or carried on, any massage.

E. "Massage practitioner," "massage trainee," "masseur," "masseuse" means any person who administers massage to another person, for any form of consideration (whether for the massage, as part of other services or a product, or other).

F. "Off-premises massage service" means any business where a function of such business is to engage in or carry on massage, not at a fixed location but at a location designated by the customer, massage practitioner or other person.

G. "Recognized school of massage" means any school or institution of learning which teaches the theory, ethics, practice, profession, or work of massage, which has been approved pursuant to the California Education Code. Schools offering a correspondence course not requiring attendance shall not be deemed a recognized school. The City shall have the right to confirm that the applicant has actually attended class in a recognized school.

5.28.030 Permit required -- Massage establishment, off-premises massage service, massage practitioner. It is unlawful for any person, association, partnership or corporation to engage in, conduct or carry on, or permit to be engaged in, conducted or carried on in or upon any premises within the City, the operation of a massage establishment or off-premises massage service or the function of a massage practitioner without first having obtained a permit issued by the City pursuant to the provisions hereinafter set forth. A permit shall be valid from the date of issuance unless revoked or suspended.

5.28.040 Business tax requirement. A massage establishment and off-premises massage service shall pay the required business license tax for such business and occupation.

5.28.050 Permit not required. The provisions of this Chapter shall not apply to the following classes of individuals or businesses while engaged in the performance of their duties:

A. Physicians, surgeons, chiropractors, osteopaths, nurses or any physical therapists who are duly licensed to practice their respective professions in the State of California and persons working directly under the supervision of such licensed persons. "Working directly under the supervision" shall mean that the person is an employee or independent contractor of the licensed person, is working at the same locations as the licensed person, and his/her work is checked by the licensed person.

B. Barbers and beauticians who are duly licensed under the laws of the State of California while engaging in practices within the scope of their licenses,

except that this provision shall apply solely to the massaging of the neck, face and/or scalp of the customers.

C. Hospitals, nursing homes, sanitariums or any other health facilities duly licensed by the State of California.

D. Accredited high schools, junior colleges, and colleges or universities whose coaches and trainers are acting within the scope of their employment.

E. Trainers of amateur, semiprofessional or professional athletes or athletic teams while engaging in their training responsibilities for and with athletes; and trainers working in conjunction with a specific athletic event such as an outdoor road or bike race.

5.28.060 Massage establishment, off-premises massage service permit application.

A. Any person, corporation, or partnership desiring to obtain a permit to operate a massage establishment or off-premises massage service shall make application to the Chief of Police or his or her authorized representative. Prior to submitting such application, a non-refundable fee of one hundred twenty dollars for each applicant and massage practitioner working at the establishment shall be paid to defray in part the cost of the investigation and report required by this Chapter. A copy of the receipt shall accompany the application. Individuals holding valid permits at the time of this ordinance's passage shall not be required to re-apply unless reasonable cause exists, as determined by the City Attorney, to request the permittee to re-apply.

B. The application and fee required under this section shall be in addition to any license, permit or fee required under any other Chapter of this Code.

C. The application for permit does not authorize a massage establishment or off-premises massage service to operate until such permit has been granted.

D. Each applicant for a permit shall submit the following information under penalty of perjury:

1. The full true name under which the business will be conducted;
2. The present or proposed address where the business is to be conducted;
3. The applicant's full, true name, and other names used, date of birth, California driver's license number or California identification card number, social security number (unless prohibited by law), present residence address and telephone number. The sex, height, weight, color of hair, and color of eyes. Such other

identification and information shall be provided as required by the Chief of Police or his or her representative, necessary to discover the truth of the matters specified and required in the application;

4. Previous residences of the applicant for the past five years and the inclusive dates at each address;

5. The applicant's business, occupation, and employment history for five years preceding the date of application, and the inclusive dates of same;

6. The massage permit history of the applicant, whether such person has ever had any permit or license issued by any agency, board, city, county, territory, or state; the date of issuance of such a permit or license, whether the permit was issued, revoked, or suspended and the reason therefore;

7. All convictions for any crime involving conduct which requires registration under California Penal Code Section 290, or convictions of California Penal Code Sections 266(c), 266(d), 266(e), 266(g), 266(h), 266(i), 315, 316, 318, 647(a) 647(b)(647(d) (as now written or as amended), or convictions of any felony offense involving the sale or possession of a controlled substance specified in California Health & Safety Code Sections 11054, 11055, 11056, 11057, or 11058. Convictions under the laws of other states or countries which proscribe the same conduct or similar conduct as the afore-designated California crimes shall be provided. Convictions that have been expunged must be reported. All injunctions for nuisances under Penal Code Section 1225 or similar laws;

8. A complete definition of all services to be provided;

9. The name, address, and date of birth of each massage practitioner or employee who is or will be employed in the massage establishment or off-premises massage service;

10. The name and address of any massage business or other like establishment owed or operated by any person whose name is required to be given pursuant to this section;

11. Acceptable written proof that the applicant is at least eighteen years of age;

12. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter together with the state and date of incorporation and the names and residence addresses of each of its current officers and directors, and of each stockholder holding more than five percent of that corporation;

13. If the applicant is a partnership, the application shall set forth the names and residence address of each of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership as filed with the county clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporate applicants shall apply to the corporate partner;

14. The applicant, corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer/employee. Such person shall complete and sign all application forms required of an individual applicant under this chapter. The corporation's or partnership's responsible managing officer must at all times, meet all of the requirements set for permittee by this chapter or the corporation or partnership permit shall be suspended until a responsible managing officer who meets such requirements is designated. If no such person is found within ninety days, the corporation or partnership permit is deemed canceled and a new application for permit must be filed;

15. The applicant is required to furnish fingerprints for the purpose of establishing identification. Fingerprinting will be taken at a place and time designated by the Chief of Police. Permittees holding valid permits at the time this ordinance is enacted shall not be required to furnish fingerprints unless reasonable cause exists, as determined by the City Attorney, to believe the applicant might have been arrested for a disqualifying offense since his/her fingerprints were last checked.

16. Two photographs of the applicant and managing responsible officer to be taken by the Police Department;

17. A description of any other business to be operated on the same premises, or on adjoining premises, owned or controlled by the applicant;

18. The name and address of the owner and lessor of the real property upon or in which the business is to be conducted. In the event the applicant is not the legal owner of the property, the application must be accompanied by a copy of the lease and a notarized acknowledgment from the owner of the property that a massage establishment will be located on his/her property.

19. Authorization for the City, its agents and employees, to seek information and conduct an investigation into the truth of the statements set forth in the application and into the background of the applicant and the responsible managing officer.

20. Proof of massage malpractice insurance in the sum of not less than one hundred thousand dollars per massage practitioner licensed, or to be licensed, at the massage establishment. This requirement can be satisfied by malpractice insurance being provided in the name of individual massage practitioners;

21. The applicant shall submit any change of address or fact which may occur during the procedure of applying for a massage establishment permit;

22. A certificate of compliance from the City of Redlands Community Development Director which certifies that the premises of the massage establishment meet all applicable codes and regulations must be submitted prior to application approval. Any required inspection fees shall be the responsibility of the applicant and are separate and not included within the application fee.

23. The Chief of Police shall have up to sixty days, after submission of all required information, including the required certificate of compliance, to investigate the application and the background of the applicant. Upon the completion of the investigation, the Chief of Police shall grant the permit, with or without conditions, if the Chief finds in the exercise of discretion all of the following:

- (a) The required fee has been paid;
- (b) The application conforms in all respects to the provisions of this chapter and to other laws;
- (c) The applicant has not made a material misrepresentation in the application;
- (d) The applicant, if an individual, or any of the stockholders of the corporation, or any officers or director, if the applicant is a corporation; or a partner if the applicant is a partnership, or the managing responsible officer has not been convicted within five years preceding application in a court of competent jurisdiction of an offense involving conduct which requires registration under California Penal Code Section 290, or of conduct which is a violation of the provisions of California Penal Code Sections 266(c), 266(d), 266(e), 266(g), 266(h), 266(i), 315, 316, 318, 647(a), 647(b) 647(d) (as now written or amended), or any felony offense involving the sale or possession of controlled substance specified in California Health and Safety Code Sections 11054, 11055, 11056, 11057 or 11058; or that an injunction has not been issued under Penal Code Section 11225. Convictions under the laws of other states or counties which proscribe the same or similar conduct as the afore-designated California crimes shall be considered;
- (e) Within five years preceding application, the applicant or managing responsible officer/employee has not had a massage establishment, off-premises massage service, massage practitioner, or other similar permit or license revoked, or suspended by the town, or any other state or local agency; or engaged in or operated a massage or similar establishment in a manner that would be grounds for revocation of a permit under this Chapter; or owned or managed a massage or similar establishment where persons required to be licensed were allowed to work without the required licenses;
- (f) The applicant is at least eighteen years of age;

(g) The permit as required by the applicant would comply with all applicable laws, including, but not limited to, health, zoning, fire and safety requirements and standards.

(h) If the Chief of Police, following investigation of the applicant, in the exercise of his discretion, fails to make the findings stated in of this section, the Chief shall deny said application by written notice to the applicant.

5.28.070 Massage establishment and off-premises operating requirements. No person shall engage in, conduct, carry on, or permit to be engaged in, conducted, or carried on, any massage establishment or off-premises massage service, unless each and all of the following requirements are met:

A. Each person employed or acting as a massage practitioner shall have a valid permit issued by the Chief of Police. It is unlawful for any owner, manager, operator, responsible managing officer/employee, or permittee to employ or permit a person to act as a massage practitioner who is not in possession of a valid, unrevoked massage practitioner permit issued pursuant to this Chapter.

B. The possession of a valid massage establishment does not authorize the possessor or any other person to perform work for which a massage practitioner permit is required.

C. Massage shall be provided or given only between the hours of six a.m. and ten-thirty p.m. No massage establishment shall be open and no customer shall be in the establishment between ten-thirty p.m. and six a.m. No off-premises massage shall be provided or given before six a.m. or after ten-thirty p.m.

D. A list of services available and the cost of such services shall be posted in an open public place within the premises, and shall be described in readily understandable language. No owner, manager, operator, responsible managing employee, or permittee shall permit and no massage practitioner shall offer or perform, any service other than those posted.

E. The massage establishment permit and a copy of the permit of each and every massage practitioner employed in the establishment shall be displayed in an open and conspicuous place on the premises.

F. Every massage establishment and off-premises massage service shall keep a written record of the date and hour of each service provided; the name, age and address of each patron and the service received; and the name of the massage practitioner administering the service. Such records shall be open to inspection only by the City Attorney, the Chief of Police or their designee(s), if reasonable cause to examine the records exists. Reasonable cause in these instances shall be determined by the City Attorney. These records may not be used for any other purpose than as records of service provided and may not be provided to other

parties by the massage establishment or service. Such records shall be retained on the premises of the massage establishment and at the off-premises business office for a period of two years.

G. Massage establishments shall at all times be equipped with an adequate supply of clean sanitary towels, coverings and linens. Clean towels, coverings and linens shall be stored in enclosed cabinets. Towels and linens shall not be used on more than one patron, unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one patron. Soiled linens and paper towels shall be deposited in separate receptacles approved by the City.

H. Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bath rooms, tanning booths, whirlpool baths and pools shall be thoroughly cleaned and disinfected as needed, and at least once each day the premises are open, with a disinfectant approved by the environmental services director of the town. Bathtubs shall be thoroughly cleaned with a disinfectant approved by the environmental services director after each use. All walls, ceilings, floors, and other physical facilities for the establishment must be in good repair, and maintained in a clean and sanitary condition.

I. Instruments utilized in performing massage shall not be used on more than one patron unless they have been sterilized, using sterilization methods approved by the environmental services director of the town.

J. All employees, including massage practitioners, shall wear clean, non-transparent outer garments. Said garments shall not expose their genitals, pubic areas, buttocks, or breasts.

K. No person shall enter, be or remain in any part of a massage establishment while in possession of an open container of alcohol, or consuming or using any alcoholic beverage or drugs except pursuant to a prescription for such drugs. The owner, operator, responsible managing employee, manager, or permittee shall not permit any such person to enter or remain upon such premises.

L. No massage establishment or off-premises massage service shall operate as a school of massage, or use the same facilities as that of a school of massage.

M. No massage establishment or off-premises massage service granted a permit under the provisions of this chapter shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective customers that any service is available other than those services described in Section 5.28.020 of this Chapter, nor shall any massage establishment or out call massage service employ language in the text of such advertising that would reasonably suggest to a

prospective patron that any service is available other than those services described in Section 5.28.020 of this chapter.

N. A massage shall not be given unless the patron's genitals are fully covered.

O. No massage establishment shall be open for business without at least one massage practitioner on the premises at all times who is in possession of a current, unrevoked permit.

P. No condoms shall be kept in a massage establishment unless they are the personal property of persons on-site and for the individual's personal use at a location other than the massage establishment.

Q. No massage may be carried on within any cubicle, room, booth, or any area within a massage establishment which is fitted with "two way" mirrors, cameras or video taping equipment.

5.28.080 Massage establishment facilities regulations.

Every massage establishment shall maintain facilities which comply with the following requirements:

A. Any signs shall be in conformance with the current ordinances of the City.

B. Minimum lighting shall be provided in accordance with Article 220 of the National Electrical Code, and, in addition, at least one artificial light of not less than twenty-five watts shall be provided in each room or enclosure where massage services are performed on patrons.

C. Minimum ventilation shall be provided in accordance with the Uniform Building Code.

D. Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided.

E. Hot and cold running water shall be provided at all times.

F. Closed cabinets shall be provided for storage of clean linens.

G. Adequate dressing and toilet facilities shall be provided for patrons.

H. A minimum of one wash basin for employees shall be provided at all times. The basin shall be located within or as close as practicable to the area devoted to performing of massage services. Sanitary towels shall also be provided at each basin.

I. Proof of compliance with all applicable provisions of the City shall be provided prior to the issuance of any permit.

J. Off-premises Massage Service. Any massage practitioner who provides massage at any hotel or motel, shall first notify the owner, manager, or person in charge thereof that such permittee intends to provide massage to a person or persons registered at the hotel or motel and give such owner, manager, or person in charge the name on his/her massage practitioner permit.

5.28.090 Inspection by officials. The investigating and enforcing officials of the City, including the health officer for the City, or their designee, shall have the right to enter the premises from time to time during regular business hours for the purpose of making reasonable inspections to observe and enforce compliance with building, fire, electrical, plumbing or health regulations, and to enforce compliance with applicable regulations, laws and provisions of this Chapter.

5.28.100 Permits non-assignable. No massage establishment or off-premises massage service permit may be sold, transferred or assigned by the permittee, or by operation of law, to any other person or persons; any such sale, transfer or assignment, or attempted sale, transfer or assignment shall be deemed to constitute a voluntary surrender of such permit and such permit shall thereafter be deemed terminated and void; provided and excepting, however, that if the permittee is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without affecting a surrender or termination of such permit and in each case the permittee shall thereafter be deemed to be the surviving partner(s). If the permit is issued to a corporation, stock may be sold, transferred, issued, or assigned to stockholders who have been named on the application. If any stock is sold, transferred, issued, or assigned to a person not listed on the application as a stockholder, the permit shall be deemed terminated and void unless the new stockholders are identified within ten days of transfer and they meet all requirements under this chapter for stockholders.

5.28.110 Change of location or name. A change of location of a massage establishment maybe approved by the Chief of Police, the Community Development Director and the Fire Chief or their designated representatives, provided all ordinances and regulations of the City are complied with. No permittee shall operate under any name or conduct any massage establishment or off-premise massage service under any designation not specified in the approved permit. Any

application for an expansion of a building or other place of business of a massage establishment shall require compliance with this Chapter; no expansion of a non-conforming location shall be permitted.

5.28.120 Massage practitioner -- permit required. No person shall engage in the business of massage or act as a massage practitioner unless such person holds a valid massage practitioner's permit issued by the City. Each massage practitioner permit holder shall be issued a photo identification badge which will also serve as a massage practitioner permit. The permit holder shall keep the permit in their possession during business hours and produce it when requested by an authorized representative of the City.

5.28.130 Massage practitioner permit application.

A. Each applicant for a massage practitioner permit shall make application to the Chief of Police or his designated representative. Prior to submitting an application, a non-refundable fee in the sum set forth in the City fee schedule shall be paid to help defray the costs of the investigation required by this chapter. A copy of the cashier's receipt shall accompany the application. Permittees holding valid permits at the time this ordinance is enacted shall not be required to re-apply unless reasonable cause, as determined by the City Attorney, exists to require a re-application.

B. Permit fees required under this section shall be in addition to any license, permit or fee requirements under any other section or ordinance of this code.

C. Each applicant for a massage practitioner permit shall submit the following under penalty of perjury:

1. All information required by Section 5.28.060 D 3 through 8, 11, 16, 21 and 22.

2. New applicants must furnish a diploma or certificate of graduation from either a 500 hour resident course of instruction from either a recognized school as defined in Section 5.28.020 E of this Chapter; or an existing school or institution of learning outside the State of California together with a certified transcript of the applicant's school records showing date of enrollment, hours of instruction and graduation from a course having at least a minimum requirement prescribed by Title 5, Division 21, of the California Administrative Code; wherein the theory, method, profession and work of massage is taught, and a copy of the school's approval by its State Board of Education.

In lieu of the 500 hours course work new applicants can satisfy this requirement by demonstrating graduation from a 100 hour course from a recognized school and continuing to work under the immediate direction (on-the-premises supervision)

of a licensed massage practitioner that has at least 1000 hours of course work from a recognized school. Each year of such supervised work shall equate to 100 hours of training. Any combination of supervised work as described herein and continuing education from recognized school can satisfy the applicant's requirement to acquire the equivalent of 500 hours of course work.

Individuals holding valid permits at the time this ordinance was passed are exempt from the aforementioned 500 hour requirement. However, if their permit expires without renewal they will fall under the 500 hour requirements as set forth in this ordinance as if they were new applicants.

3. The massage establishment's full name, address and telephone number if the massage practitioner will be employed at a fixed place of business. In the event the applicant seeks to conduct off-premises massage services not related to the massage establishment, an additional application must be submitted unless the applications are submitted contemporaneously.

4. Such other identification and information as the Police Department may require in order to fully investigate the matters set forth in the application.

5. Two photographs of the applicant to be taken by the Police Department designee. Nothing contained herein shall be construed to deny the right of the Chief of Police or his designee to confirm the height and weight of the applicant, or take additional photographs.

6. The Chief of Police or his authorized representative may require the applicant to furnish fingerprints when needed for the purpose of establishing identification. Any required fingerprinting fees will be the responsibility of the applicant. Fingerprinting shall be taken at a place designated by the Chief of Police. Permittees holding valid permits at the time this ordinance is enacted shall not be required to furnish another set of fingerprints unless reasonable cause, as determined by the City Attorney, exists to require them.

7. Authorization for the City, its agents and employees, to seek information and to investigate the truth of the statements set forth in application and to investigate the background of the applicant.

D. The Chief of Police or authorized representative, shall have up to sixty days after the submission of all required information to complete his investigation. Upon completion of his investigation, he shall grant the permit, with or without conditions, if in the exercise of his discretion he finds those matters designated in Section 5.28.060 and in the exercise of his discretion further finds:

1. The applicant has furnished an acceptable diploma or certificate of graduation from a recognized school;

2. The applicant has furnished written proof from a recognized school that the minimum number of hours of instruction have been completed.

3. The applicant has provided the certificate required by Section 5.28.130 (C)(2).

E. If the Chief of Police or authorized representative, following investigation of the applicant, in the exercise of his discretion, fails to make the findings in "subsection D of this section," he shall deny said application by dated, written notice.

5.28.140 New massage practitioners - notification.

The holder of the massage establishment or off-premises massage service permit shall notify the Chief of Police, in writing, of the name and address of each person employed as a massage practitioner at such establishment within five days of the person being employed. The requirements of this section are in addition to the other provisions of this Chapter; and nothing contained herein shall relieve the permittee of the responsibility of ascertaining, prior to employment, that said person has a current unrevoked massage practitioner's permit.

5.28.150 Renewal of permits - massage establishment, off-premises massage service, massage practitioner.

Massage establishment, off-premises massage service, and massage practitioner permits shall be valid from the time of issuance unless suspended or revoked.

5.28.160 Application of regulations to existing massage establishments, off-premises massage services, and massage practitioners.

The provisions of this Chapter shall be applicable to all persons and businesses whether the business was established before or after the effective date of the ordinance codified in this Chapter.

5.28.170 Prohibited conduct.

A. It is unlawful for any massage practitioner or other person to massage the genital area of any patron or the breasts of any female patron or for any operator of a massage establishment to allow or permit such massage.

B. It is unlawful for any massage practitioner to be other than fully clothed in non-transparent clothing at all times that shall not expose their genitals, pubic area, buttocks or breasts or for any operator of a massage establishment to allow or permit different dress.

C. If during the life of a permit the applicant has any change in information concerning the original application, notification must be made to the Chief of Police, in writing, within thirty days of the change. If off-premises massage services are to be performed, then the massage practitioner's permit must indicate approval for off-premises massage services.

D. It is unlawful for any massage establishment, off-premises massage service, or massage practitioner to provide a massage between ten-thirty-one p.m. and five-fifty-nine a.m.

E. It is unlawful for any massage establishment, or off-premises massage service or any permittee, owner, operator, or responsible managing officer/employee, to violate any of the mandatory requirements of this Chapter applicable to massage establishments or off-premises massage services.

F. It is unlawful for any massage practitioner to violate any of the mandatory requirements of this chapter applicable to massage practitioners.

5.28.180 Suspension or revocation hearing.

A. The Chief of Police may revoke or suspend a massage establishment permit or massage practitioner permit (or existing massage technician permit) if any of the following are found: the permittee does not possess the qualifications for the permit as required by this chapter; has been convicted of any violation of the provisions of this chapter or any lesser included offense; has made a material misrepresentation on the permit application or renewal; has engaged in conduct or operated the massage establishment or as a massage practitioner in a manner which violates any of the mandatory provisions of this chapter, any conditions of the permit, or any of the laws which would have been grounds for denial of the permit. For purposes of this section, permittee shall include the managing responsible officer or employee. Further, the permittee shall be responsible for those acts of its employees and massage practitioners which are done in the course and scope of their employment by the permittee.

B. A hearing before the Chief of Police shall be scheduled upon not less than ten calendar days notice to the permittee stating the grounds for proposed revocation or suspension. Notice shall be given by personal service or certified mail to the address shown on the last application or renewal. If reasonable attempts to otherwise serve are not successful, service may be provided by first class mail.

C. Notice of the decisions shall be given in the same manner as for the hearing. The decision of the Chief of Police or authorized representative may be appealed by the permittee to the City Manager within fifteen calendar days of service by filing written notice of appeal with the City Manager's Office stating the basis for the appeal and the errors claimed to have occurred. If the permit is suspended or

revoked, the permit shall be surrendered. Service shall be deemed complete when personal service is made, when the certified letter is delivered, or when the decision is mailed by first class mail.

5.28.190 Appeal procedure.

A. The permittee or applicant, not later than fifteen calendar days after service of notice of revocation, suspension, denial of application or renewal or approval with conditions, may file an appeal and the asserted errors in the decision, with the City Clerk. In the case of an appeal from a permit denial or an approval with conditions, a hearing shall be held in accordance with the process (notice, appeal, etc.) set forth for suspension of revocation hearings; appeal from the conclusion to the hearing may be made as set forth in the preceding sentence.

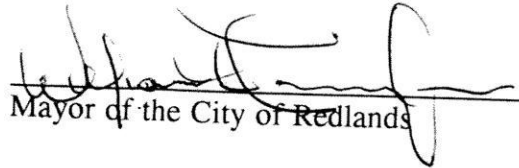
B. The City Manager or designee shall review the record of the hearing below including a transcript or a tape of the hearing. No further testimony shall be taken. The manager or designee shall also allow oral argument not to exceed fifteen minutes per side. Notice of the time for appeal argument shall be given by personal service or certified mail to the address shown on the last application or renewal. If reasonable attempts to otherwise serve are not successful, service may be provided by first class mail.

C. After the argument, the City Manager or designee shall render a written decision within ten working days from the date the matter is submitted for decision. The action of the City Manager or designee shall be final and conclusive. The decision shall be served upon the permittee pursuant to the procedures for scheduling the argument. Service shall be deemed complete when personal service is made, when the certified letter is delivered, or when the notice is mailed by first class mail.

5.28.200 Burden of proof. Unless otherwise specifically prohibited by law, the burden of proof is on the permittee/applicant in any hearing or other matter under this Chapter.

5.28.210 Public nuisance. Any massage establishment operated, conducted, or maintained contrary to the provisions of this Chapter shall be unlawful and a public nuisance, and the City Attorney may in the exercise of discretion, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in any manner provided by law.

Section 2. The Mayor shall sign this ordinance and the City Clerk shall certify to the adoption of this ordinance and shall cause it, or a summary of it, to be published once in the Redlands Daily Facts, a newspaper of general circulation within the City, and thereafter, this ordinance shall take effect in accordance with law.


Mayor of the City of Redlands

ATTEST:


City Clerk

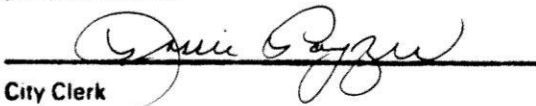
I, Lorrie Poyzer, City Clerk of the City of Redlands, hereby certify that the foregoing ordinance was duly adopted by the City Council at a regular meeting thereof held on the 2nd day of June, 1998, by the following vote:

AYES:	Councilmembers Banda, Gilbreath, George, Freedman; Mayor Cunningham
NOES:	None
ABSENT:	None
ABSTAIN:	None


City Clerk

CERTIFICATION

I, Lorrie Poyzer, City Clerk of the City of Redlands, California, do hereby certify that this is a true and correct copy of Ordinance No. 2380 which has been published in the local newspaper pursuant to law.


City Clerk
City of Redlands, California