

ORDINANCE NO. 1136

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BREA REVISING REGULATIONS APPLICABLE TO MASSAGE SERVICES AND AMENDING TITLE 5 OF THE BREA CITY CODE

A. ORDINANCE:

NOW, THEREFORE, the City Council hereby ordains as follows:

SECTION 1. Chapter 5.220 of Title 5 of the Brea City Code is hereby repealed provided, however, that such repeal shall not affect or excuse any violation of said Chapter occurring prior to the effective date of this Ordinance.

SECTION 2. A new Chapter 5.220 is hereby added to Title 5 of the Brea City Code to read as follows:

"CHAPTER 5.220: REGULATIONS APPLICABLE TO MASSAGE SERVICES

Sections:

Article I. Massage Establishments and Definitions

- 5.220.010 Definitions.**
- 5.220.020 Permit required.**
- 5.220.030 Exceptions:**
- 5.220.040 Massage establishment--Application.**
- 5.220.050 Operating requirements.**
- 5.220.060 Facilities.**
- 5.220.070 Inspections.**
- 5.220.080 Permit nonassignable.**
- 5.220.090 Change of location or name.**
- 5.220.100 Notification of changes.**
- 5.220.110 Renewal of permit.**

Article II. Certified Massage Therapists

- 5.220.200 Certified Massage Therapists—massage certificate required.**

Article III. Out Call Massage Services

- 5.220.300 Out Call Massage Services--Special endorsement required.**
- 5.220.310 Application.**
- 5.220.320 Record.**

Article IV. Prohibited Conduct, Procedures and Penalties

- 5.220.400 Prohibited conduct.**
- 5.220.410 Suspension pending revocation.**
- 5.220.420 Revocation--Massage establishment permit.**
- 5.220.430 Permit denial/revocation appeal procedure.**
- 5.220.440 Burden of proof at hearing.**
- 5.220.450 Penalties for violation of chapter.**
- 5.220.460 Civil remedies available.**
- 5.220.470 Severability.**

Article I. Massage Establishments and Definitions

5.220.010 Definitions.

Unless the particular provision of the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning and application of words and phrases used in this chapter:

'Applicant(s)' means the individual applicant and/or the designated officer or managing partner acting on behalf of a corporation or partnership.

'Certified Massage Therapist' and 'Certified Massage Practitioner' shall mean any person holding a valid and current massage certificate.

'Chief' means the Police Chief of the City of Brea, or his or her designee.

'Director' means the Director of Finance of the City of Brea, or his or her designee.

'Employee' means any person, other than a Certified Massage Therapist or Certified Massage Practitioner, who may render any service to the permittee, and who receives compensation from the permittee or his or her agent, and who has no physical contact with the customers or clients.

'Hearing Officer' means the City Manager of the City of Brea, or his or her designee.

'Massage' means any method of treating the external parts of the human body for remedial, health, or hygienic purposes by means of pressure on or friction against; or stroking, kneading, rubbing, tapping, pounding; or stimulating the external parts of the human body with the hands or other parts of the human 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.

'Massage certificate' means a certificate issued to any massage therapist or practitioner pursuant to California Business and Professions Code Section 4601, or any successor provision thereto.

'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 business of giving massages, baths, administration of fomentation, electric or magnetic treatments, alcohol rubs, or any other type of system for treatment or manipulation of the human body with or without any character of bath, such as Turkish, Russian, Swedish, Japanese, vapor, shower, electric tub, sponge, mineral, fomentation, or any other type of bath.

'Out Call Massage Service' means any business where the primary function of such business is to engage in or carry on massage at locations designated by the customers or clients.

'Permittee' means any person, firm, partnership or corporation having a massage establishment permit issued hereunder.

§5.220.020 Permit required.

A. It is unlawful for any person, firm, partnership or corporation to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises within the City, the operation of a massage establishment as herein described, without first having obtained a massage establishment permit issued by the City pursuant to the provisions herein set forth. Said permit shall immediately be surrendered to the Director upon suspension, revocation or expiration of said permit.

B. A permit under this Article I shall be valid for twelve months from the date of issuance unless revoked or suspended. The permit required shall be in addition to any business license required by City ordinance or any other permit required for such use including, but not limited to, any conditional use permit or other similar entitlement for use. A massage establishment permit may be renewed up to thirty (30) days after the expiration date upon payment of a late

fee in such amount as established by resolution of the City Council. Thereafter, such business must comply with all requirements of this chapter applicable to new massage establishment applicants.

5.220.030 Exceptions.

The provisions of this chapter shall not apply to massage services provided by the City of Brea or by any City authorized person, group, entity, business or organization as part of an official city program or function approved by the City Manager or designee, nor shall the provisions of this chapter apply to the following classes of individuals while engaged in the performance of the duties of their respective professions:

A. Physicians, surgeons, chiropractors, osteopaths or physical therapists who are duly licensed to practice their respective professions in the state;

B. Nurses registered under the laws of the state;

C. Barbers and cosmetologists, licensed by the State of California, and persons licensed by the State of California to provide skin care (estheticians) or nail care (manicurists), as defined and to the extent provided in Business and Professions Code Section 7316, or any successor provision thereto, as follows:

1. Barbers may massage the face and scalp;

2. Cosmetologists may massage the scalp, face, neck, arms, hands, feet below the calf, and the body extending from the clavicles upward;

3. Estheticians may massage the face, neck, arms and the body extending from the clavicles upward;

4. Manicurists may massage the hands, and feet below the calf.

State licensed barbers, cosmetologists, estheticians and manicurists are subject to the exemption provided by this subsection C only while providing other barbering, cosmetology, skin care or nail care services in a facility licensed by the City of Brea to provide such services. The provisions of this subsection C apply to apprentices of any of the foregoing who are licensed by the State of California, but only while performing barbering, cosmetology, skin care or nail care services under the direct supervision of a barber, cosmetologist, esthetician or manicurist who is subject to the exemption provided by this subsection;

D. Hospitals, nursing homes, sanitariums or other health care facilities duly licensed by the state;

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

F. Trainers of amateur, semiprofessional or professional athletes or athletic teams.

5.220.040 Massage establishment--Application.

A. Any person, firm, corporation, or partnership desiring to obtain a permit to operate a massage establishment shall make application under penalty of perjury of the laws of the state, to the Director. Prior to submitting such application, a nonrefundable fee in an amount established by the City Council shall be paid to the City to defray, in part, the cost of the investigation and reports required by this Article I. A copy of the receipt showing payment of the required fee shall accompany the application.

B. The application and fee required under this section shall be in addition to any license, permit or fee required under any other provisions of this code or ordinance heretofore or hereafter adopted, and shall be submitted together with a writing, signed and dated by the applicant, under penalty of perjury, stating that all information contained in the application is true and correct.

C. The application for permit does not authorize conducting a massage establishment. No business shall be conducted until such permit has been granted.

D. Each applicant for a massage establishment permit shall submit the following information:

1. The full true name under which the business will be conducted. If the name is a fictitious name, all individual owners, stockholders, partners, etc., shall be identified;

2. The present or proposed address where the business is to be conducted;

3. The applicant's full, true name, any other names used, date of birth, California driver's license number or California identification number, Social Security number, present residence address and telephone number. The sex, height, weight, color of hair, and color of eyes;

4. Previous eight years of residences of the applicant and the inclusive dates at each address;

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

6. A complete explanation of all services to be provided;

7. The name, address, and date of birth of each Certified Massage Therapist, Certified Massage Practitioner, aide, trainee or employee who is or will be employed in such establishment;

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

9. 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 five percent or more of the stock of that corporation;

10. If the applicant is a partnership, the application shall set forth the name and residence addresses 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 Section 5.220.040(D)(9) pertaining to corporate applicants shall apply;

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

12. The name and address of the owner and lessor of the real property upon or in which the business is to be conducted shall be identified. 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;

13. 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 shall be required. The Chief shall provide such assistance to the Director as may be required to fully investigate the applicant and the truth of the matters set forth in the application;

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

15. A Certificate of Compliance and Certificate of Occupancy (for new applicants) from the City Development Services Department, Building and Safety Division, must be submitted prior to the application approval. Any required inspection fees shall be the responsibility of the applicant;

If the Certificates of Compliance and Occupancy are not received by the Director within sixty (60) days of the date of filing, the application shall be deemed void. If any land use permit or other entitlement for use is required, such permit or use shall be applied for and received prior to the massage establishment permit becoming effective.

E. The Director shall have up to one hundred twenty (120) calendar days to investigate the application and the background of each applicant for a massage establishment permit. Upon the completion of the investigation and passing the City Ordinance exam (for new applicants), the Director shall grant the permit if he or she finds as follows:

1. The required fee has been paid;
2. The application conforms in all respects to the provisions of this Article I;
3. The applicant has not made a material misrepresentation in the application; and
4. All persons who will provide massage services are Certified Massage Therapists or Certified Massage Practitioners, as evidenced by the submission of copies of a valid and current massage certificate, attested to by the applicant, under penalty of perjury, as being true and correct.

F. If the Director, following investigation of the applicant, determines that the applicant does not fulfill the requirements of this Article I, the director shall deny such application by dated, written notice to the applicant, forwarded to the applicant's address as set forth in the application, by U.S. mail, with a proof of service attached. Following a denial or revocation of a massage establishment permit, no application for a massage establishment permit may be filed by such applicant, at the same or substantially similar physical location, for at least one year following the date of such denial or revocation. The applicant shall have the right of appeal as to any denial, as set forth in Section 5.220.430.

G. Proof of compliance with all applicable provisions of the Brea City Code and the applicable ordinances shall be provided prior to the issuance of any permits.

5.220.050 Operating requirements.

No person shall engage in, conduct, or carry on, or permit to be engaged in, conducted, or carried on, any massage establishment, unless each and all of the following requirements are met:

A. Each person employed to perform massage must be a Certified Massage Therapist or Certified Massage Practitioner in possession of a valid massage certificate, which certificate shall be displayed in a conspicuous area open to the public at all times. It is unlawful for any owner, manager, operator, responsible managing employee, or permittee in charge of or in control of a massage establishment to employ or permit a person to perform massage who does not possess a valid massage certificate.

B. The possession of a valid massage establishment permit does not authorize the possessor to perform work for which a massage certificate is required.

C. Massage and bath operations shall be carried on or conducted, and the premises shall be open, only between the hours of seven a.m. and ten p.m.

D. A list of services available as approved pursuant to the application 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. In the event any list of services and costs posted or provided hereunder is in other than the English language, the permittee shall, at the permittee's cost and expense, provide to the Director an English language translation thereof. Such English translation shall be attested to being a full, true and correct translation thereof under penalty of perjury of the laws of the State of California. No owner, manager, operator, responsible managing employee, or permittee shall permit, and no Certified Massage Therapist or Certified Massage Practitioner shall offer or perform, any service other than those posted.

E. The massage establishment permit and a copy of each massage certificate for every Certified Massage Therapist and Certified Massage Practitioner, employed in the establishment shall be displayed in an open and conspicuous place on the premises.

F. Every massage establishment shall keep a written record of the date and hour of each treatment, the name and address of each patron, the name of the Certified Massage Therapist or Certified Massage Practitioner administering the treatment, and the type of treatment administered. Such written record shall be maintained on forms approved by the Director. Such records shall be open to inspection only by officials charged with enforcement of this chapter, shall be available during all business hours of the establishment, and shall be used for no other purpose. Any unauthorized disclosure or use of such

information by any officer or employee of the City or the County of Orange, or the owner or employee of the massage establishment shall constitute a misdemeanor and such persons shall be subject to the penalty provisions of this chapter in addition to any other penalties provided by law. Such records shall be maintained on the premises of the massage establishment 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 such towel or linen has first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one patron. Soiled linens and towels shall be deposited in separate, health department approved receptacles.

H. Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bathrooms, 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 Orange County Health Department. Bathtubs shall be thoroughly cleaned with a disinfectant, approved by the health department, after each use. All walls, ceilings, floors and other physical facilities of 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 such instruments have been sterilized, using approved sterilizing methods.

J. All employees, including Certified Massage Therapists and Certified Massage Practitioners, shall be clean, and shall wear clean, nontransparent outer garments. Such garments shall not expose their genitals, pubic area, buttocks or chest.

K. No person shall enter, be or remain in any part of a massage establishment while in the possession of, consuming, under the influence of 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 shall operate as a school of massage, or use the same facilities as that of a school of massage.

M. No massage establishment granted a permit under this Article I 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 or clients that any service is available other than those services described in Section 5.220.050(D) of this Article I. Nor shall any massage establishment or outcall 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 as described in Section 5.220.050(D) of this Article I.

N. A massage shall not be given and no patron shall be in the presence of a certified massage therapist or other employee unless the patron's genitals are fully covered by a nontransparent covering. In addition, a female patron's breasts shall be fully covered by a nontransparent covering.

O. No massage establishment shall be open for business without at least one Certified Massage Therapist or Certified Massage Practitioner on the premises at all times who is in possession of a current, valid massage certificate.

P. Each massage establishment granted a permit under this article shall have a manager on the premises at all times the massage establishment is open for business. The operator of each massage establishment shall file a statement with the director designating the person or persons who shall act as manager. The operator, or manager in the operator's absence, shall be responsible for ensuring compliance with this chapter. Any act or omission of any employee or independent contractor, performing services as part of the massage establishment's business, constituting a violation of any of the provisions of this chapter shall be deemed to be an act or omission of the massage establishment permittee for purposes of determining whether the massage establishment permittee's permit shall be revoked, suspended, denied or renewed.

5.220.060 Facilities.

Every massage establishment shall maintain facilities meeting all of the following requirements:

A. Signs shall be in conformance with the current ordinances of the City;

B. Minimum lighting shall be provided in accordance with Section 1205 of the California Building Code or successor provision or provisions. In addition, at least one artificial light of not less than sixty 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 Section 1203 of the California Building Code or successor provision or provisions;

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

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

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

G. A minimum of one separate 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;

H. Pads used on massage tables shall be covered with a durable, washable plastic or other waterproof material acceptable to the Orange County Health Department.

5.220.070 Inspections.

The Director, Chief, and the Orange County Health Department, or any of their authorized representatives, shall have the right to enter any massage establishment for the purpose of making reasonable unscheduled inspections to observe and enforce compliance with applicable regulations, laws, and provisions of this chapter.

5.220.080 Permit nonassignable.

No massage establishment permit may be sold, transferred or assigned by the permittee, or by operation of law, to any other person or persons, and 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 effecting a surrender or termination of such permit and in each case the permittee shall thereafter be deemed to be the surviving partner(s). One or more proposed partners, in a partnership granted a permit hereunder, may make application to the director, together with the fee established by the City Council therefore, to amend the original application, providing all information as required for partners in the first instance and, upon approval thereof, the transfer of the interests of one or more partners to the proposed partner or partners may occur.

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; provided,

however, the proposed transferee may submit to the Director, together with a fee established by the City Council, an application to amend the original application providing all information as required for stockholders in the first instance, and, upon approval thereof, the transfer may then occur.

5.220.090 Change of location or name.

A. A change of location may be approved by the Director provided the massage establishment complies with all ordinances and regulations of the City.

B. No permittee shall operate under any name or conduct any establishment under any designation not specified in the permit.

C. Any application for an expansion of a building or other place of business of a massage establishment shall require compliance with this Article I.

5.220.100 Notification of change.

A. The holder of the permit to operate or conduct a massage establishment shall notify the director, in writing, of the name and address of each person employed, including Certified Massage Therapists and Certified Massage Practitioners, at such establishment within five days of said 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, whether an employee has a current, and valid massage certificate.

B. If, during the term of a permit, the applicant has any change in information provided on or concerning the original application or permit renewal application, notification shall be made to the Director in writing, within ten (10) business days of the change.

5.220.110 Renewal of permit.

A massage establishment licensed under this Article I shall submit an application for renewal thirty (30) days prior to the expiration thereof. The renewal application shall be submitted together with the requisite fee as established by the City Council. Approval of the renewal application shall be contingent upon satisfactory compliance with all pertinent provisions of this Article I.

Article II. Certified Massage Therapists/Certified Massage Practitioners

**5.220.200 Certified Massage Therapists/Certified Massage Practitioners--
massage certificate required.**

It is unlawful for any person to engage in the business of providing or performing massage unless such person holds a valid and current massage certificate.

Article III. Out Call Massage Services

5.220.300 Out Call Massage Services.

It is unlawful for any person to provide Out Call Massage Services unless such person is a Certified Massage Therapist or Certified Massage Practitioner.

Article IV. Prohibited Conduct, Procedures and Penalties

5.220.400 Prohibited conduct.

It is unlawful for any Certified Massage Therapist or Certified Massage Practitioner, or for any permittee to permit or allow any Certified Massage Therapist or Certified Massage Practitioner, to touch or massage the genital area of any patron or the breasts of any female patron or for any massage establishment to allow or permit such massage.

5.220.410 Suspension pending revocation.

When the grounds for revocation under this chapter are that the permittee is suspected of illegal, improper, or otherwise objectionable conduct in violation of this chapter, the permit may be suspended until the revocation hearing procedure has been completed.

5.220.420 Revocation--Massage establishment permit.

The director may, after notice and hearing, revoke the massage establishment permit of any person, firm, partnership or corporation holding the same upon receipt of satisfactory evidence that:

A. The permittee has made a material misrepresentation on the permit application;

B. The permittee, any managing responsible employee thereof or any person enumerated in Section 5.220.040(D)(9) or Section 5.220.040 (D)(10) of Article I hereof has been convicted of or entered a plea of guilty or nolo contendere to any charge of a violation of any state, federal or other governmental law similar to and including California Penal Code Section 290, any violation of any statute for which the permittee is required to register pursuant to Section 290 or any such similar registration law, or any crime that involves conduct which is a violation of any state, federal or other governmental law similar to and including California Penal Code Sections 266h, 266i, 314, 315, 316, 318, 647, or any other crime involving the elements of the foregoing code

sections, by way of plea bargain, or any other crime involving dishonesty, fraud, deceit or moral turpitude, or any lesser included offense; or

C. The permittee, any managing responsible employee, or any employee, representative, or agent of the permittee, or any Certified Massage Therapist or Certified Massage Practitioner employed by the permittee, has engaged in conduct constituting a violation of this chapter or of any of the enumerated statutes or crimes set forth in Section 5.220.420 (B), above. The Director shall provide the permittee with written notice of the revocation by U.S. mail, with a proof of service attached, addressed to the street address of the massage establishment as shown on the application; or

D. The massage establishment no longer satisfies the approval requirements set forth in Section 5.220.040, including, but not limited to, failure of a massage establishment to use or employ only Certified Massage Therapists or Certified Massage Practitioners to provide massage services.

5.220.430 Permit denial/revocation appeal procedure.

A. The applicant or permittee, as the case may be, within ten (10) business days after the date of denial of an application for a permit under Article I hereof, or notice of revocation, may file an appeal with the City Clerk to be taken to the hearing officer. In the event an appeal of a revocation is timely filed, and the grounds for revocation are those set forth in Section 5.220.410, then a suspension of the permit shall be in effect until the final decision has been rendered by the hearing officer.

B. If the applicant or permittee fails to timely file an appeal, then the denial/revocation shall take effect immediately upon expiration of the appeal filing period. No permit shall be revoked until after a hearing has been held before the hearing officer to determine good cause for such revocation, or the appeal filing period has lapsed. It is unlawful for any person to conduct a massage establishment or carry on the business of massage until the revoked permit has been reinstated by the hearing officer.

C. Notice of such hearing shall be given in writing and mailed at least ten (10) days prior to the date of the hearing, by U.S. mail, with a proof of service attached, addressed to the address listed on the massage establishment application. The notice shall state the grounds for denial or revocation, and the time and place where such hearing will be held.

D. After said hearing, the Hearing Officer shall render a written decision within ten (10) business days from the date the matter is submitted for decision. The action of the Hearing Officer shall be final and conclusive.

5.220.440 Burden of proof at hearing.

Unless otherwise specifically provided by law, the burden is on the City in any hearing under this Article IV to prove that the determination of the Director that is being appealed is reasonable, and not an abuse of discretion.

5.220.450 Penalties for violation of chapter.

It is unlawful for any person, firm, partnership or corporation to violate any provision or to fail to comply with any of the requirements of this chapter. Any person, firm, partnership or corporation violating any provisions of this chapter or failing to comply with any of the requirements thereof shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment. Each and every person, firm, partnership or corporation shall be deemed guilty of a separate offense for each and every day or any portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted by such person, firm, partnership or corporation, and shall be deemed punishable therefor as provided in this chapter.

5.220.460 Civil remedies available.

The violation of any of the provisions of this chapter shall constitute a nuisance and may be abated by the City through civil process by means of restraining order, preliminary or permanent injunction or in any other manner provided by law for the abatement of such nuisances.

5.220.470 Severability.

The City Council declares that, should any article, provision, section, paragraph, sentence or word of this chapter be or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, including, but not limited to, any provision contained in California Business and Professions Code Section 4600, et seq., the remaining provisions, sections, paragraphs, sentences and words of this chapter shall remain in full force and effect. The provisions of California Business and Professions Code Sections 4600 through 4613 shall be deemed to govern over any conflicting provisions contained in this Chapter."

SECTION 3. Time for compliance. Each massage establishment and Massage Technician possessing a valid City of Brea massage establishment or massage technician permit as of the effective date of this Ordinance may continue to exercise all

rights and privileges applicable to such permit, and shall be subject to the provisions of Chapter 5.220 of Title 5 of the Brea City Code, as the same existed prior to the effective date of this Ordinance, until such permit expires. Thereafter, all such massage establishment and massage technician permit holders shall comply with, and shall be subject to, the requirements of this Ordinance.

SECTION 4. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published in the manner prescribed by law.

APPROVED AND ADOPTED this 6th day of April, 2010.



Mayer

I, Lucinda Williams, City Clerk of the City of Brea, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Brea held on the 16th day of March, 2010 and was passed at a regular meeting of the City Council of the City of Brea held on the 6th day of April, 2010.

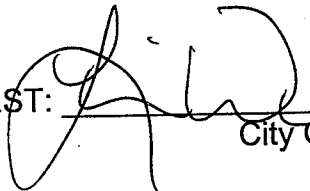
AYES: COUNCIL MEMBERS: Beauman, Schweitzer, Simonoff, Moore, Garcia

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ATTEST: _____


City Clerk

DATE: _____

April 12, 2010