



## AGENDA REPORT

**Meeting Date:** November 20, 2012  
**Item Number:** F-4  
**To:** Honorable Mayor & City Council  
**From:** Laurence S. Wiener, City Attorney, and  
Shiri Klima, Assistant City Attorney  
**Subject:** AN ORDINANCE OF THE CITY OF BEVERLY HILLS UPDATING THE  
CITY'S MASSAGE REGULATIONS AND AMENDING THE BEVERLY  
HILLS MUNICIPAL CODE  
**Attachments:** 1. Ordinance  
2. Legislative digest showing changes to current regulations

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### **RECOMMENDATION**

It is recommended that the City Council introduce an ordinance updating the City's massage regulations and amending the Beverly Hills Municipal code and read by title only.

### **BACKGROUND**

Massage is the fifth largest health-related profession in California. There are approximately 25,000 massage professionals currently practicing in the State. There are also over 200 schools in California offering massage instruction. Prior to 2008, California was among a minority of states that did not have statewide standards concerning the education, training and licensing of massage professionals.

In 2008, the State Legislature adopted Senate Bill 731, adding a chapter regarding massage practitioners and therapists to the California Business and Professions Code. SB 731 created the California Massage Therapy Council ("CAMTC"), which is a nonprofit organization responsible for issuing certificates to massage practitioners and therapists who meet certain educational and experiential criteria and disciplining certified practitioners and therapists who act unprofessionally. In 2011, the Legislature adopted Assembly Bill 619, adding new provisions to the Business and Professions Code chapter and attempting to clarify some of SB 731's provisions. SB 731 and AB 619 are collectively referred to in this staff report as the "Massage Therapy Law." Please note that recently the Legislature adopted Senate Bill 1238,

which will go into effect in January 2013. This bill has further clarified and amended some regulations in the Massage Therapy Law but will not affect the information in this staff report or the proposed ordinance.

Cities may continue to regulate uncertified massage professionals or establishments that employ uncertified professionals in all of the respects that were permitted prior to the adoption of the Massage Therapy Law. However, among other restrictions, the Massage Therapy Law does not allow cities to require certified massage practitioners and therapists or massage establishments that only employ certified practitioners and therapists to obtain special regulatory permits or licenses, although cities may require standard business licenses and impose fees at standard rates.

### **DISCUSSION**

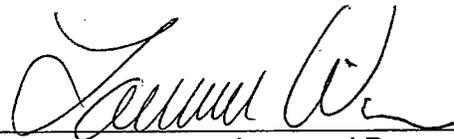
The City's current ordinance defines a "massage parlor" as "[a]ny place of business where massages, alcohol rubs, fomentations, baths, electric or magnetic treatments, physiotherapy, manipulations of the body, or similar treatments are given by a masseur" and a "masseur" as "[a]ny person, male or female, who administers to another person for any form of consideration a massage, alcohol rub, fomentation, bath, electric or magnetic treatment, physiotherapy, manipulation of the body, or similar treatment." The current ordinance requires a regulatory permit, which applies to "certain types of businesses and activities [that] require specific regulation in addition to the general code provisions." Additionally, the City's current ordinance requires any owner, operator, or manager of a massage parlor, and each person employed or engaged as a masseur, to obtain an identification card required of employees or agents of those regulated businesses. The Massage Therapy Law does not allow such regulations to apply to certified massage practitioners and therapists or to massage establishments that only employ certified practitioners and therapists. In order to bring our ordinance into compliance with State law, the proposed ordinance amendment creates exceptions to our local requirements for such professionals and establishments.

Additionally, the City's ordinance, which has not been amended since 1962, prohibits any masseur from administering any treatment to any person of the opposite sex and ensures the permittee does not cause or permit such activity. These provisions have not been enforced for some time and are not currently enforceable. In order to bring current regulations into conformance with current laws, the proposed ordinance removes such provisions.

Going forward, staff intends to reach out to institutions offering massage services, including hotels and spas, to engage in a dialogue regarding further regulations consistent with the Massage Therapy Law. The goal is to ensure health and safety across all businesses engaged in providing massage services while not negatively impacting the City's legitimate business establishments providing massage services.

### **FISCAL IMPACT**

This update to the City's massage regulations is not anticipated to have a material fiscal impact on the City.



Approved By

# **Attachment 1**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
UPDATING THE CITY'S MASSAGE REGULATIONS AND  
AMENDING THE BEVERLY HILLS MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES ORDAIN AS  
FOLLOWS:

**Section 1.** The City Council hereby amends Article 11 of Chapter 2 of Title 4 of the Beverly Hills Municipal Code to read as follows:

“4-2-1101: PERMIT REQUIRED:

No person shall engage in, conduct, or carry on the business of massage parlor without a permit issued under the provisions of chapter 1, article 1 of this title, unless every masseur employed or engaged by the massage parlor is certified by the California Massage Therapy Council.

4-2-1102: DEFINITIONS:

**MASSAGE PARLOR:** Any place of business where massages, alcohol rubs, fomentations, baths, electric or magnetic treatments, physiotherapy, manipulations of the body, or similar treatments are given by a masseur.

**MASSEUR:** Any person who administers to another person for any form of consideration a massage, alcohol rub, fomentation, bath, electric or magnetic treatment, physiotherapy, manipulation of the body, or similar treatment.

4-2-1103: EXEMPTIONS:

The provisions of this article shall not apply to or affect physicians, surgeons, chiropractors, nurses, physical therapists, or any other natural person duly licensed by the state to perform the services of a masseur, nor shall it apply to or affect a state licensed cosmetologist engaged in authorized activities pursuant to that license.

4-2-1104: RESTRICTIONS AND PROHIBITIONS:

The permittee shall ensure that each person who does not hold a certificate issued by the California Massage Therapy Council and is employed or engaged as a masseur at permittee's massage parlor shall have first obtained a masseur identification card under chapter 1, article 2 of this title.

4-2-1105: IDENTIFICATION CARD REQUIRED:

Unless certified by the California Massage Therapy Council, any owner, operator, manager of a massage parlor, and any person employed or engaged in the activity of a masseur, shall obtain an identification card issued under the provisions of chapter 1, article 2 of this title, and have such identification card in his or her possession at all times when engaged in the activity regulated by this article.”

**Section 2.** CEQA Findings.

The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment. This Ordinance does not authorize construction or particular land uses, and to the extent that future projects are proposed, appropriate CEQA review would be undertaken. This Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

**Section 3.** Severability.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

**Section 4.** Publication.

The City Clerk shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

[Continued.]

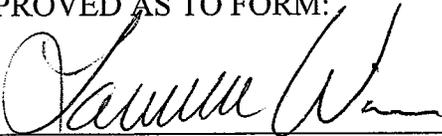
PASSED, APPROVED, AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
WILLIAM W. BRIEN, M.D.  
Mayor

ATTEST:

\_\_\_\_\_  
(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY KOLIN  
City Manager

  
\_\_\_\_\_  
SUSAN HEALY KEENE  
Director of Community Development

# **Attachment 2**

LEGISLATIVE DIGEST

AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
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4-2-1102: DEFINITIONS:

MASSAGE PARLOR: Any place of business where massages, alcohol rubs, fomentations, baths, electric or magnetic treatments, physiotherapy, manipulations of the body, or similar treatments are given by a masseur.

MASSEUR: Any person, ~~male or female,~~ who administers to another person for any form of consideration a massage, alcohol rub, fomentation, bath, electric or magnetic treatment, physiotherapy, manipulation of the body, or similar treatment.

4-2-1103: EXEMPTIONS:

The provisions of this article shall not apply to or affect physicians, surgeons, chiropractors, nurses, physical therapists, or any other natural person duly licensed by the state to perform the services of a masseur, nor shall it apply to or affect a state licensed cosmetologist those practices authorized by the state to and engaged in authorized activities pursuant to that license by a state licensed cosmetologist.

4-2-1104: RESTRICTIONS AND PROHIBITIONS:

~~A. The permittee shall not cause or permit in or about the massage parlor, or in connection with such massage parlor, any masseur, agent, employee, servant, or any other person to administer any treatment regulated by this article to any person of the opposite sex.~~

~~B. A masseur shall not administer any treatment regulated by this article to any person of the opposite sex.~~

~~C.~~The permittee shall ensure that each person who does not hold a certificate issued by the California Massage Therapy Council and is employed or engaged as a masseur at permittee's massage parlor shall have first obtained a masseur identification card under chapter 1, article 2 of this title.

4-2-1105: IDENTIFICATION CARD REQUIRED:

Unless certified by the California Massage Therapy Council, aAny owner, operator, manager of a massage parlor, and any person employed or engaged in the activity of a masseur, shall obtain an identification card issued under the provisions of chapter 1, article 2 of this title, and have such identification card in ~~their~~his or her possession at all times when engaged in the activity regulated by this article.”