

ORDINANCE NO. 1180

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

The City Council of the City of Brea does hereby ordain as follows:

SECTION 1. A new subsection "C" is hereby added to Section 5.220.020 of Chapter 5.220 of Title 5 of the Brea City Code, to read as follows:

"C. Except as provided in Section 5.220.030 (Exceptions), if any other type of business, including but not limited to, a tanning salon, spa, reflexology facility or acupuncture facility, allows any type of massage, that business must obtain a massage establishment permit."

SECTION 2. Subsection "3" of Section 5.220.040.D of Chapter 5.220 of Title 5 of the Brea City Code is hereby amended to read as follows:

"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; sex, height, weight, color of hair, and color of eyes. The applicant shall also state whether, during the previous ten (10) years, the applicant or any managing responsible employee thereof or any person enumerated in Section 5.220.040(D)(9) or Section 5.220.040 (D)(10) of this Article I ("Applicant Parties", collectively), 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: (i) California Penal Code Section 290; or (ii) any statute for

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which the applicant or any of the Applicant Parties is required to register pursuant to Penal Code Section 290 or any such similar registration law; or (iii) any law similar to and/or including California Penal Code Sections 266h, 266i, 314, 315, 316, 318, 647, or any other crime involving the elements of the foregoing code sections, including any plea bargain; or (iv) any other crime involving dishonesty, fraud, or any lesser included offense; The applicant shall also state whether he or she has ever had any ownership interest in any business providing massage services as to which, during the previous five (5) years, any permit or authorization of any kind to provide massage services was revoked.”

SECTION 3. The first paragraph of Section 5.220.040.E of Chapter 5.220 of Title 5 of the Brea City Code is hereby amended to read as follows:

“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 completion of the investigation, the Director shall grant the permit if he or she finds as follows:”

SECTION 4. New subsections “5” and “6” are hereby added to Section 5.220.040.E of Chapter 5.220 of Title 5 of the Brea City Code, to read as follows:

“5. During the ten (10) previous years, neither the applicant nor any of the Applicant Parties has been convicted of or entered a plea of guilty or nolo contendere with respect to a violation of any of the laws, statutes, or Penal Code sections described, referenced or identified in Section 5.220.040.D.3 of this Article 1.

6. During the previous five (5) years, no business providing massage

services in which the applicant had any ownership interest, had any permit or authorization of any kind to provide massage services revoked.”

SECTION 5. New subsections “Q” and “R” are hereby added to Section 5.220.050 of Chapter 5.220 of Title 5 of the Brea City Code, to read as follows:

“Q. A massage establishment permit will not be granted for, and no massage establishment may open or operate in, any location where, during the previous year, a business providing massage services was closed due to criminal activity, had its business license revoked, or had a massage establishment permit revoked.

R. Any existing massage establishment operating in a location where such use is no longer permitted by right shall be a nonconforming use. Any existing massage establishment operating in a location where such use is no longer permitted by right shall be discontinued within one year of the effective date of this subsection.”

SECTION 6. A new Section 5.220.045 is hereby added to Chapter 5.220 of Title 5 of the Brea City Code, to read as follows:

“§ 5.220.045 MINIMUM PROXIMITY REQUIREMENTS.

No massage establishment shall be located within specified distances of certain land uses as set forth below:

A. No massage establishment shall be located within five hundred (500) feet or less of any school or place of worship. Distance shall be measured from the closest business premises property line of the massage establishment, to the closest business premises property line of the specified use.

B. No massage establishment shall be located within three hundred (300) feet or less of any other massage establishment. Distance shall be measured from the

closest business premises property line of the existing massage establishment, to the closest property line of the proposed or intended business premises.

SECTION 7. Section 5.220.400 of Chapter 5.220 of Title 5 of the Brea City Code is hereby amended to read as follows:

“§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. Massaging of the breasts is permissible provided the recipient has consented in writing and possesses a written referral recommending such massage by a licensed California health care provider.”

SECTION 8. 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 19th day of January, 2016.

ATTEST:



City Clerk



Mayor



I, Lillian Harris-Neal, 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 1st day of December 2015, and was passed at a regular meeting of the City Council of the City of Brea, held on the 19th day of January 2016, by the following vote:

AYES: COUNCIL MEMBER: Marick, Hupp, Parker, Simonoff, Vargas

NOES: COUNCIL MEMBER:

ABSENT: COUNCIL MEMBER:

ABSTAIN: COUNCIL MEMBER:

DATED: _____

City Clerk

