Council Meeting of
August 4, 2009

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: POLICE & FINANCE - ADOPTION OF ORDINANCE ADDING A NEW ARTICLE 14 OF CHAPTER 5 OF DIVISION 3 OF THE TORRANCE MUNICIPAL CODE RELATING TO MASSAGE THERAPY REGULATIONS. EXPENDITURE: N/A.

RECOMMENDATION

Recommendation of the Chief of Police and the Finance Director that City Council adopt an Ordinance adding a new Article 14 of Chapter 5 of Division 3 of the Torrance Municipal Code relating to massage therapy regulations. The Chief of Police and the Finance Director further recommend that the City Council approve the attached summary of the Ordinance for publication.

FUNDING

Not applicable.

BACKGROUND/ANALYSIS

On Tuesday, July 28, 2009, staff brought forward an item recommending adoption of an Ordinance adding a new Article 14 of Chapter 5 of Division 3 of the Torrance Municipal Code relating to massage therapy regulations and approval of a summary of the Ordinance for publication. At the Council meeting, your Honorable Body requested further information from staff and the item was continued to August 4, 2009. On July 30, 2009, a letter was sent to the owners of massage establishments notifying them of this meeting. A copy of that letter is attached as Attachment C. Staff conducted a survey of massage establishments regarding hours of operation. The results of the survey are attached as Attachment D. Additionally, staff made revisions to the ordinance in the following sections: (1) Finding (b) of section 1 and (2) Section 35.14.060(c). A redline of the changes is attached as Attachment E.

During the Council Meeting on July 28, 2009, there were questions by the City Council regarding the authority of the Police Chief and the License Supervisor under the summary suspension procedure found in Section 35.14.130. The purpose of this section is to allow the City of Torrance to deal with serious violations in a prompt

manner. The Police Chief would use this section for criminal violations that occur at massage businesses or establishments. The License Supervisor would use this section to deal with administrative violations of the Torrance Municipal Code. The revocation process under Section 35.14.140 could take 30 to 45 days before a hearing would be held in front of the License Review Board. The summary revocation procedure found in Section 35.14.130 would allow the Police Department and Finance Department to deal with serious violations in a more expeditious manner than under the revocation procedure found in Section 35.14.140.

At the April 28, 2009, City Council meeting, the City Council adopted Interim Urgency Ordinance No. 3718, which created a temporary 45 day moratorium on new Massage or Acupressure Establishments, and the issuance of new licenses for Massage or Acupressure Technicians, while City staff began their review of applicable Charter and Torrance Municipal Code provisions, and other laws, in an effort to evaluate what regulations were needed to protect the health, safety and welfare of the community. On June 9, 2009 your Honorable Body approved staff's recommendation to extend the moratorium for 84 days so that the moratorium will expire on September 1, 2009, which is the date that Senate Bill 731 (codified as Business and Professions Code section 4600 et seq.) goes into effect. The extension was requested to allow staff sufficient time to:

(a) Thoroughly review existing Charter and Torrance Municipal Code provisions and protocols relating to Massage or Acupressure Establishments, Massage or Acupressure Technicians, and zoning regulations;

(b) Conduct inspections of Massage or Acupressure Establishments and Massage or Acupressure Technicians;

(c) Study the impact of SB 731; and

(d) Study criminal activity in and around Massage or Acupressure Establishments, while conducting enforcement actions of Massage or Acupressure Establishments and Massage or Acupressure Technicians.

During the extension period staff examined Senate Bill 731. In 2008 the California Legislature passed SB 731 which goes into effect on September 1, 2009. The new law (SB 731) amended Business and Profession Code section 4600, et seq. to provide for a new State massage therapist license. The new law preempts any local massage licensing requirements. SB 731 allows the massage technician to obtain a state-wide massage license. In addition to reviewing SB 731, the Police Department conducted inspections of Massage or Acupressure Establishments and Massage or Acupressure Technicians. There were many violations detected during the inspections. Citations were issued and some arrests were made. The new ordinance that is being submitted to Your Honorable Body brings the City's massage regulations into compliance with State Law and enhances the enforcement sections

of the Torrance Municipal Code relating to Massage and Acupressure Establishments.

Respectfully submitted,

ERIC E. TSAO
Finance Director

By: _____
Kenneth Flewellyn
Assistant Finance Director

By: _____
Lt. Devin Chase
Vice & Narcotics Division Commander

CONCUR:

_____
Eric E. Tsao
Finance Director

_____
LeRoy J. Jackson
City Manager

Attachments:
A. Ordinance
B. Summary of Ordinance
C. Letter to business owners
D. Survey
E. Redline of changes to ordinance

ATTACHMENT A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE ADDING A NEW ARTICLE 14 OF CHAPTER 5 OF DIVISION 3 TO THE TORRANCE MUNICIPAL CODE RELATING TO MASSAGE THERAPY REGULATIONS

The City Council of the City of Torrance ordains as follows:

SECTION 1

The City Council finds as follows:

(a) This Article is intended to provide for the orderly regulation of persons and establishments engaged in the practice of Massage Therapy, in the interest of the public health, safety and welfare. The City of Torrance wishes to recognize the practice of Massage Therapy as a valid and professional field and to discourage the use of Massage Therapy as a subterfuge by persons with criminal tendencies to violate section 647(a) or section 647(b) of the Penal Code or to commit other unlawful activity.

(b) There are a number of businesses that are in fact operating as fronts for prostitution that advertise in the "adult services" section of craigslist.com and other "adults only" sections of print and electronic advertising media. These advertisements are not intended to attract legitimate massage therapy clients, but rather are intended to solicit patrons who are interested in paying for sexual services under the auspices of receiving a massage. According to investigations and reports by the Federal Bureau of Investigation, Immigration and Customs Enforcement, and the Department of Justice, many of these illicit massage businesses are owned and operated by human trafficking organizations. Many of these traffickers charge women tens of thousands of dollars to smuggle them into the country, and then force them to work off their debts in erotic massage parlors.

(c) The City of Torrance regulates massage establishments and massage technicians in Articles 11 and 12 of Chapter 5 of Division 3 of the Torrance Municipal Code.

(d) In 2008, the California Legislature passed Senate Bill No. 731 (SB 731), which becomes effective September 1, 2009. SB 731 added Chapter 10.5 (commencing with Section 4600) to Division 2 of the Business & Professions Code and regulates massage therapists.

(e) This Article is enacted pursuant to Sections 51030 – 51034 of the Government Code, Sections 4600 – 4620 and 16000 of the Business & Professions Code, and Article XI, Section 7 of the California Constitution.

(f) The provisions of this Article are not intended to be exclusive and compliance therewith will not excuse noncompliance with any state or local laws or regulations that are uniformly applied to other professional or personal services businesses, including but not limited to, all zoning regulations, business license provisions, building code, and fire, electrical, plumbing, and health and safety code laws and regulations applicable to professional or personal services businesses.

SECTION 2

A new Article 14 of Chapter 5 of Division 3 of the Torrance Municipal Code is added to read in its entirety as follows:

"ARTICLE 14 – MASSAGE THERAPY REGULATIONS

Section 35.14.010	Massage therapy license required – Deadline for compliance.
Section 35.14.020	Definitions.
Section 35.14.030	Exemptions from Article.
Section 35.14.040	Registration and notification requirements.
Section 35.14.050	Hours of operation.
Section 35.14.060	Prohibited advertising practices.
Section 35.14.070	Minors.
Section 35.14.080	Physical facility and building code requirements.
Section 35.14.090	Health and safety requirements.
Section 35.14.100	Attire and physical hygiene requirements.
Section 35.14.110	Inspection by government officials.
Section 35.14.120	Owner and operator responsibility – Denial, revocation, restriction or suspension of business license.
Section 35.14.130	Summary suspension.
Section 35.14.140	Suspension or Revocation.
Section 35.14.150	Appeal.
Section 35.14.160	Remedies cumulative – Each day a separate offense.
Section 35.14.170	Public nuisance.
Section 35.14.180	Criminal penalties.
Section 35.14.190	Civil injunction.

35.14.010 State Certification required – Deadline for compliance.

Except where a specific exemption is applicable pursuant to Section 35.14.030, it is a violation of this Article for:

(a) Any person to engage in the practice of massage therapy and any massage business or establishment to employ or retain such a person, unless such person first obtains and continues to maintain in full force and effect a valid State Certificate.

(b) Any person holding a valid Massage Technician Permit pursuant to Torrance Municipal Code section 35.12.1 et seq. may continue to provide massage therapy under that Massage Technician permit until December 31, 2009. All Massage Technician Permits will expire at 11:59 p.m. on December 31, 2009. Upon expiration of the Massage Technician Permit, any person who wants to engage in the practice of massage therapy will be required to obtain a valid State Certificate prior to performing any massage therapy.

(c) Any massage business or establishment holding a valid Massage Establishment License pursuant to Torrance Municipal Code section 35.11.1 et seq. may continue to provide massage therapy services until December 31, 2009, as long as their employees, agents, independent contractors or other representatives providing massage therapy have a valid Massage Technician Permit or State Certificate. All Massage Establishment Licenses will expire at 11:59 p.m. on December 31, 2009. Upon expiration of the Massage Establishment License, any massage business or establishment will be required to get a license under this Article.

35.14.020 Definitions.

(a) Compensation. The term "compensation" means the payment, loan, advance, donation, contribution, deposit, exchange, or gift of money or anything of value.

(b) Employed or Retained By. The term "employed or retained by" includes:

(1) Any person who is a directly paid employee of a massage business or establishment;

(2) Any person whose association with a massage business or establishment is that of an independent contractor who receives compensation for massage therapy provided to patrons of the business or establishment; and

(3) Any person who receives a referral of patrons from a massage business or establishment and who at any time before or after the referral arranges in any way for compensation to flow to the massage business or establishment or any of its owners (regardless of whether the parties involved acknowledge that compensation is flowing in exchange for the referral, or such parties record such compensation in their financial records).

(c) Massage, Massage Therapy, Bodywork. The terms "massage," "massage therapy," and "bodywork" are used in this Article interchangeably and mean the application of various techniques to the muscular structure and soft tissues of the human body, including, but not limited to, any method of pressure or friction against, or stroking, kneading, rubbing, tapping, compression, pounding, vibrating, rocking or stimulating of the external surfaces of the body with hands or with any object or appliance. The terms "massage," "massage therapy," and "bodywork" specifically exclude the diagnosis, prescription, intentional manipulation or adjustments of the skeletal structure, or any other service, procedure or therapy which requires a license to practice (e.g., chiropractic, osteopathy, orthopedics, physical therapy, podiatry, or medicine), hypnosis, naturopathic, colonic irrigation, acupuncture, vacuum cupping, nutritional or dietary counseling, detoxification programs, yoga, exercise, spiritual healing, or procedures which penetrate body cavities, either manually or with any other method of intrusion.

(d) License Supervisor. The term "License Supervisor" means the License Supervisor of the City of Torrance or his or her authorized representative(s).

(e) Massage Business or Establishment. The term "massage business or establishment" means any business or establishment which offers massage therapy in exchange for compensation at a fixed place of business. Any business or establishment which offers any combination of massage therapy and bath facilities, including, but not limited to, showers, baths, wet and dry heat rooms, pools and hot tubs, will be deemed a massage business or establishment under this Article.

(f) Massage Practitioner. The term "massage practitioner" means any person to whom a State Certificate has been issued pursuant to subdivision (b) of Section 4601 of the California Business and Professions Code, or subdivision (a) or (c) of Section 4604 of the California Business and Professions Code, and who is engaged in the practice of massage therapy for compensation. As used in this Article, the terms "bodywork practitioner" or "massage and bodywork practitioner" will have the same meaning as "massage practitioner."

(g) Massage Therapist. The term "massage therapist" means any person to whom a State Certificate has been issued pursuant to subdivision (c) of Section 4601 of the California Business and Professions Code and who is engaged in the practice of massage therapy for compensation. As used in this Article, the terms "bodyworker," "bodywork therapist," or "massage and bodywork therapist" will have the same meaning as "massage therapist."

(h) State Certificate. The term "State Certificate" means the certificate issued by the California Massage Therapy Council (referred to as the Massage Therapy Organization in SB 731) to massage therapists pursuant to subdivision (c) of Section 4601 of the California Business and Professions Code, and to massage

practitioners pursuant to subdivision (b) of Section 4601 of the California Business and Professions Code or subdivision (a) or (c) of Section 4604 of the California Business and Professions Code.

(i) Operator. The term "operator" means any person who supervises, manages, directs, organizes, controls or in any other way is responsible for or in charge of the overall operation, conduct or activities of a massage business or establishment.

(j) Owner. The term "owner" means any of the following persons:

(1) The sole proprietor of a massage business or establishment. As used in this Article, the term "sole proprietor" will mean a massage business or establishment where the owner is the only person employed by that business or establishment to provide massage therapy;

(2) Any general partner of a partnership that owns and operates a massage business or establishment; or

(3) Any person who has a 20 percent or greater ownership interest in a corporation that owns and operates a massage business or establishment.

(k) Person. The term "person" means any individual, proprietorship, partnership, corporation, firm, association, joint stock company, or combination of the above in whatever form or character.

(l) Police Chief. The term "Police Chief" means the Police Chief of the City of Torrance or his or her authorized representative(s).

(m) Recognized School of Massage. The term "recognized school of massage" means a facility that teaches the theory, ethics, practice, profession and work of massage therapy and that is approved by any of the following:

(1) The Bureau for Private Postsecondary and Vocational Education pursuant to former Section 94739 of the California Education Code prior to July 1, 2007;

(2) The Department of Consumer Affairs;

(3) An institution accredited by the Accrediting Commission for Senior Colleges and Universities or the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges and that is one of the following: (a) a public institution; (b) an institution incorporated and lawfully operating as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the California Corporations Code, and that is not managed

by any entity for profit; (c) a for-profit institution; (d) an institution that does not meet all of the criteria in subsection 3.(b) of this definition, that is incorporated and lawfully operating as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the California Corporations Code, that has been in continuous operation since April 15, 1997, and that is not managed by any entity for profit;

(4) A college or university of the state higher education system, as defined in Section 100850 of the California Education Code; or

(5) A school of equal or greater training that is approved by the corresponding agency in another state or territory of the United States or accredited by an agency recognized by the United States Department of Education.

The term "recognized school of massage" does not include a school or institution of learning offering or allowing correspondence course credit not requiring actual attendance at class.

(n) Sexually Related Crime. The term "Sexually Related Crime" means:

(1) a violation of Section 266i, 315, 316, 318, 647(a), or647(b) of the Penal Code, or any similar offenses under the criminal or penal code of this state or any other states or countries.

(2) has been required to register under the provisions of Penal Code section 290

(o) Specified Criminal Activity. The term "Specified Criminal Activity" means:

(1) Conviction of a Sexually Related Crime, or conviction of any felony offense involving the sale of a controlled substance specified in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code, or any similar offenses under the criminal or penal code of this state or any other states or countries.

(2) The fact that a conviction is being appealed will have no effect on the determination of whether the Applicant or Licensee has been convicted of a specified criminal activity under this Article.

35.14.030 Exemptions from Article.

This Article will not apply to:

(a) Persons holding a valid certificate to practice the healing arts under the laws of the state of California and their employees, including, but not limited to, holders of medical degrees such as physicians, surgeons, chiropractors, osteopaths, naturopaths, podiatrists, acupuncturists, physical therapists, registered nurses and licensed vocational nurses;

(b) State-licensed hospitals, nursing homes, sanitariums, physiotherapy establishments, or other state-licensed physical or mental health facilities and their employees;

(c) Recognized schools of massage described under Section 35.14.020(m)(3) or Section 35.14.020(4) and their students in training, provided such students provide massage therapy only under the direct personal supervision of an instructor;

(d) Barbers and cosmetologists who are licensed under the laws of the state of California while providing massage therapy within the scope of their licenses; provided, that such massage therapy is limited solely to the neck, face, scalp, feet and lower limbs up to the knees, and hands and arms, of their patrons;

(e) Persons who provide massage therapy to amateur, semi-professional or professional athletes or athletic teams, facilities or events, so long as such persons do not practice massage therapy as their primary occupation within City limits;

(f) Persons who hold a valid State Certificate and who are practicing consistent with the qualifications established by such certificate; and

(g) Massage businesses or establishments as defined under paragraph (1) of subdivision (b) of Section 4612 of the California Business and Professions Code, except that such businesses or establishments will not be exempt from this Article to the extent Section 4612 expressly permits the regulation of such businesses or establishments by local ordinance.

35.14.040. Registration and notification requirements.

(a) Every nonexempt massage business or establishment, and every massage business or establishment as defined under paragraph (1) of subdivision (b) of Section 4612 of the California Business and Professions Code, must:

> (1) Provide the License Supervisor with a copy or other evidence of the State Certificate of every person who is employed or retained by the business or establishment to provide massage therapy, prior to the commencement of such person's period of employment;

(2) Maintain on its premises a copy or other evidence of each such State Certificate for review by the Police Department; and

(3) Notify the License Supervisor of any intention to rename, change management, or convey the business or establishment to another person. Any change of name, management, ownership, or address will require approval by the License Supervisor.

(4) Provide, on or before the 5th day of each calendar month, a full list of all employees, agents, independent contractors or other representatives that are providing massage therapy at the massage business or establishment.

(5) Provide the License Supervisor a report regarding any change of employees, agents, independent contractors or other representatives that are providing massage therapy at the massage business or establishment. All hires will be reported to the License Supervisor prior to any employee, agent, independent contractor or other representative commencing work at the massage business or establishment. All discharges or terminations will be reported to the License Supervisor within 5 working days.

(6) Provide the License Supervisor the name, address, and date of birth of every person listed above in subsection (a)(1). Any change of home address will be reported to the License Supervisor within 15 days of the change of address.

35.14.050 Hours of operation.

No licensee, and no nonexempt massage business or establishment, or massage business or establishment described in paragraph (1) of subdivision (b) of Section 4612 of the California Business and Professions Code, will provide massage therapy to the public for compensation between the hours of 10:00 p.m. and 7:00 a.m. of the following day. The massage business or establishment must close, and all patrons must leave the massage business or establishment, by 10:00 p.m.

35.14.060 Prohibited advertising practices.

(a) It is a violation of this Article for any person who does not possess a valid State Certificate on or after September 1, 2009, and for any massage business or establishment that employs or retains such a person, to:

(1) State or advertise or put out any sign or card or other device, or to represent to the public through any print or electronic media, that such person is certified, registered or licensed by a governmental agency as a massage therapist or massage practitioner; or

(2) Hold oneself out or use the title of "certified massage therapist," "certified massage practitioner," or any other term, such as "licensed," "registered," or "CMT," that implies or suggests that such person is the holder of a State Certificate.

(b) It is a violation of this Article for any massage business or establishment, licensee, or any other person providing massage therapy to the public for compensation, to advertise through any print or electronic media that is classified for adults only or similar classification.

(c) It is a violation of this Article for a massage business or establishment to place an advertisement, in any print or electronic media, that does not include the State Certificate number of the massage practitioner or massage therapist that will be performing the services advertised. A massage business or establishment may comply with this subsection by listing in the print advertisement at least one State Certificate number along with a link to the website of the massage business or establishment that lists all of the State Certificate numbers of the massage practitioners or massage therapists that will be performing the services advertised.

35.14.070 Minors.

It is unlawful for any nonexempt massage business or establishment, and for any massage business or establishment described in paragraph (1) of subdivision (b) of Section 4612 of the California Business and Professions Code, to:

(a) Employ or retain any person who is under the age of 18 years to provide any massage therapy to the public for compensation; or

(b) Provide massage therapy to any person who is under the age of 18 years, except at the special instance and request of a parent or other person in lawful custody of the minor.

35.14.080 Physical facility and building code requirements.

The following physical facility and building code requirements are applicable to all nonexempt massage businesses or establishments, and to all massage businesses or establishments described in paragraph (1) of subdivision (b) of Section 4612 of the California Business and Professions Code:

(a) All exit doors will be kept unlocked during business hours.

(b) All doors to dressing rooms, toilet rooms and massage therapy rooms or cubicles will open inward and will be self-closing. Draw drapes, curtain enclosures, or accordion-pleated closures in lieu of doors are acceptable on all inner dressing rooms and massage therapy rooms or cubicles.

(c) Minimum lighting equivalent to at least one 40-watt light will be provided in each massage therapy room or cubicle.

(d) A massage table will be used for all massage therapy, with the exception of "Thai," "Shiatsu," and similar forms of massage therapy, which may be provided on a padded mat on the floor, provided the patron is fully attired in loose clothing, pajamas, scrubs or similar style of garment. The tables should have a minimum height of 18 inches. Beds, floor mattresses and waterbeds are not permitted on the premises of the business or establishment.

(e) All locker facilities that are provided for the use of patrons will be fully secured for the protection of the patron's valuables, and the patron will be given control of the key or other means of access.

(f) The business or establishment will comply with the following state building standards:

(1) The California Building Code as adopted by Torrance Municipal Code section 81.1.1 and as amended by Article 2 of Chapter 1 of Division 8 of the Torrance Municipal Code .

(2) The California Electrical Code as adopted by Torrance Municipal Code section 82.1.1 and as amended by Article 2 of Chapter 2 of Division 8 of the Torrance Municipal Code.

(3) The California Plumbing Code as adopted by Torrance Municipal Code section 83.1.1 and as amended by Article 2 of Chapter 3 of Division 8 of the Torrance Municipal Code.

(4) The California Fire Code as adopted by Torrance Municipal Code section 85.1.1 and as amended by Article 2 of Chapter 5 of Division 8 of the Torrance Municipal Code.

(5) The California Mechanical Code as adopted by Torrance Municipal Code section 89.1.1 and as amended by Article 2 of Chapter 9 of Division 8 of the Torrance Municipal Code.

35.14.090 Health and safety requirements.

The following health and safety requirements are applicable to all nonexempt massage businesses or establishments, and to all massage businesses or establishments described in paragraph (1) of subdivision (b) of Section 4612 of the California Business and Professions Code:

(a) The business or establishment will at all times be equipped with an adequate supply of clean sanitary towels, coverings and linens, and all massage tables will

be covered with a clean sheet or other clean covering for each patron. After a towel, covering or linen has once been used it will be deposited in a closed receptacle and not used until properly laundered and sanitized. Towels, coverings and linens will be laundered either by regular commercial laundering or by a noncommercial laundering process which includes immersion in water at least 140 degrees Fahrenheit for not less than 15 minutes during the washing or rinsing operation. Clean towels, coverings and linens will be stored in closed, clean cabinets when not in use.

(b) All massage therapy rooms or cubicles, wet and dry heat rooms, toilet rooms, shower compartments, and hot tubs and pools will be thoroughly cleaned and disinfected as needed, and at least once each business day the premises are open and such facilities are in use. All bathtubs will be thoroughly cleaned and disinfected after each use.

(c) All liquids, creams, or other preparations used on or made available to patrons will be kept in clean and closed containers. Powders may be kept in clean shakers. All bottles and containers will be distinctly and correctly labeled to disclose their contents. When only a portion of a liquid, cream or other preparation is to be used on or made available to a patron, it will be removed from the container in such a way as not to contaminate the remaining portion.

(d) No invasive procedures will be performed on any patron. Invasive procedures include, but are not limited to: (1) application of electricity which contracts the muscle; (2) application of topical lotions, creams, or other substances which affect living tissue, such as chemical peel preparations or bleaches; (3) penetration of the skin by metal needles; (4) abrasion of the skin below the nonliving, epidermal layers; (5) removal of skin by means of any razor-edged instrument or other device or tool; and (6) any needle-like instrument which is used for the purpose of extracting skin blemishes and other similar procedures.

(e) All bathrobes, bathing suits and/or other garments that are provided for the use of patrons will be either fully disposable and will not be used by more than one patron, or will be laundered after each use pursuant to subsection A of this section.

(f) All combs, brushes, and/or other personal items of grooming or hygiene that are provided for the use of patrons will be either fully disposable and will not be used by more than one patron, or will be fully disinfected after each use.

(g) No patrons will be allowed to use any shower facilities of the business or establishment unless such patrons are wearing slip-resistant sandals or flip-flops while in the shower compartment. All footwear such as sandals or flip-flops that are provided for the use of patrons will be either fully disposable and will not be used by more than one patron, or will be fully disinfected after each use.

(h) The patron's genitals, pubic area, anus, and female patron's breasts below a point immediately above the top of the areola must be fully draped at all times while any employee of the business or establishment is in the massage therapy room or cubicle with the patron. No massage therapy will be provided to a patron that results in intentional contact, or occasional and repetitive contact, with the genitals, anus, or areola of a patron.

(i) The massage business or establishment must comply with the Public Health Code as adopted by Torrance Municipal Code section 47.1.1 and as amended by Article 2 of Chapter 7 of Division 4 of the Torrance Municipal Code.

(j)The massage business or establishment will keep a record of the dates and hours of each treatment or service, name, address and birth date of the patron, which must be verified by the patron showing legal identification prior to the provision of service, the name of the Massage Therapist or Massage Practitioner administering such service, and a description of the treatment or service rendered. These records will be open to inspection by the health officials charged with the responsibility of preventing the spread of communicable and contagious diseases and to officials, including a police officer, charged with the enforcement of the provisions of this Article. The information furnished or secured as a result of any such records will be used only to ensure and enforce compliance with this Article and other applicable laws and will otherwise remain confidential. Officials charged with enforcement of this Article will periodically inspect the records to ensure compliance with this Article. The records must be maintained for a period of not less than one year.

(k) The massage business or establishment must display the State Certificate of each massage therapist or massage practitioner that is providing massage therapy in a conspicuous place within the massage business or establishment so that it may be readily seen by persons entering the premises.

35.14.100 Attire and physical hygiene requirements.

The following attire and physical hygiene requirements will be applicable to all massage therapists and massage practitioners who are employed or retained by a nonexempt massage business or establishment, or by a massage business or establishment described in paragraph (1) of subdivision (b) of Section 4612 of the California Business and Professions Code:

(a) All persons will be clean and wear clean and sanitary outer garments at all times. All outer garments will be of a fully opaque, nontransparent material and provide complete covering from at least the mid-thigh to two inches below the collarbone. The midriff may not be exposed.

(b) All persons will thoroughly wash their hands with soap and water or any equally effective cleansing agent immediately before providing massage therapy

to a patron. No massage therapy will be provided upon a surface of the skin or scalp of a patron where such skin is inflamed, broken (e.g., abraded, cut) or where a skin infection or eruption is present.

(c) No person afflicted with an infection or parasitic infestation capable of being transmitted to a patron will knowingly provide massage therapy to a patron, or remain on the premises of a massage business or establishment while so infected or infested. Infections or parasitic infestations capable of being transmitted to a patron include, but are not limited to: (1) cold, influenza or other respiratory illness accompanied by a fever, until 24 hours after resolution of the fever; (2) streptococcal pharyngitis ("strep throat"), until 24 hours after treatment has been initiated and 24 hours after resolution of fever; (3) purulent conjunctivitis ("pink eye"), until examined by a physician and approved for return to work; (4) pertussis ("whooping cough"), until five days of antibiotic therapy has been completed; (5) varicella ("chicken pox"), until the sixth day after onset of rash or sooner if all lesions have dried and crusted; (6) mumps, until nine days after onset of parotid gland swelling; (7) tuberculosis, until a physician or local health department authority states that the person is noninfectious; (8) impetigo (bacterial skin infection), until 24 hours after treatment has begun; (9) pediculosis (head lice), until the morning after first treatment; and (10) scabies ("crabs"), until after treatment has been completed. Blood-borne diseases, such as HIV/AIDS and hepatitis B (HBV), will not be considered infectious or communicable diseases for the purpose of this subsection.

35.14.110 Inspection by government officials.

(a) All nonexempt massage businesses or establishments, and all massage businesses or establishments described in paragraph (1) of subdivision (b) of Section 4612, will permit representatives of the county health department, the City of Torrance Police Department, Fire Department, Community Development Department, and/or other City or county departments or agencies, to conduct a reasonable inspection of the public areas of and areas otherwise open to plain view on or within the premises, to the extent allowed by law and during the regular business hours of the business or establishment, for the purpose of ensuring compliance with state and local law, including, but not limited to, Chapter 10.5 (commencing with Section 4600) of the California Business and Professions Code, the requirements of this Article, or other applicable fire and health and safety requirements.

(b) Nothing in this section will be deemed to prohibit the above-described government officials from pursuing any and all available legal remedies to secure entry into and inspection of the premises of the business or establishment if such entry is refused, or for any other reason allowed by law.

(c) It is a violation of this Article for the business or establishment to prohibit or interfere with such lawful inspection of the premises at any time it is open for business.

35.14.120 Owner and operator responsibility – Denial, revocation, restriction or suspension of business license.

The following provisions will apply to all nonexempt massage businesses or establishments, and all massage businesses or establishments described in paragraph (1) of subdivision (b) of Section 4612 of the California Business and Professions Code:

(a) For the purpose of enforcement of the requirements of this Article, all owners and operators of the business or establishment will be responsible for the conduct of all of its employees, agents, independent contractors or other representatives, while on the premises of the business or establishment or providing massage therapy.

(b) The City may:

(1) Require the business or establishment in its application for a business license, or for the renewal of a business license, to provide relevant information to the activities of the business or establishment regulated by this Article;

(2) Make reasonable investigations into the information so provided;

(3) Charge a business licensing fee sufficient to cover the costs of the business licensing activities regulated by this Article; and

(4) Deny, revoke, restrict or suspend a business license for any of the following causes: (a) an employee, agent, independent contractor or other representative of the business or establishment has committed a violation of this Article, or of Chapter 10.5 (commencing with Section 4600) of Division 2 of the California Business and Professions Code; or (b) the business or establishment has provided materially false information in its application for a business license, (c) allowing an employee, agent, independent contractor or other representative of the business or establishment to provide massage therapy without a State Certificate, or (d) any criminal offense listed under Section 35.14.020(n) or Section 35.14.020(o).

(c) No business or establishment may apply for a license under this Article within one year from denial of a license to such business or establishment or within one year from the revocation of a license issued to such business or establishment,

unless the cause of the denial or revocation has been remedied to the satisfaction of the License Review Board, or the City Council upon appeal.

35.14.130 Summary Suspension.

A business license issued under this Article may be summarily and temporarily suspended by the Police Chief or License Supervisor in the event it is determined that the massage business or establishment or any of its owners, operators, employees, agents, independent contractors or other representatives has violated or permitted to be violated any of the provisions of this Article or of Chapter 10.5 of Division 2 of the California Business and Professions Code. The suspension will be accomplished by posting a notice of the suspension on the premises. A copy of the notice of suspension will be sent by First Class mail to the owner or operator of the massage business or establishment. A hearing will be held by the City Manager, or the City Manager's designee, within 10 days of the suspension, unless a continuance is requested by the owner or operator of the massage business or establishment.

35.14.140 Suspension or Revocation.

(a) The License Review Board may suspend or revoke a massage business or establishment license pursuant to this Article if the Board finds: (1) that any owner, operator, corporation or partnership, or employee, agent, independent contractor, or other representative of the massage business or establishment has violated any of the provisions of this Article or Chapter 10.5 of Division 2 of the Business and Professions Code; (2) that that any owner, operator, corporation or partnership, or employee, agent, independent contractor, or other representative of the massage business or establishment conducts business in any manner that would have been grounds for denial of a license; or (3) that that any owner, operator, corporation or partnership, or employee, agent, independent contractor, or other representative of the massage business or establishment is engaging in behavior or actions which violate any of the provisions of this Article or Chapter 10.5 of Division 2 of the Business and Professions Code.

(b) No suspension or revocation will become effective until the massage or business establishment has been notified in writing of the right of such licensee to appear before the License Review Board and hear the evidence which is offered in support of the suspension or revocation, and to examine witnesses offering such evidence; to offer evidence in his or her own behalf, to be represented at such hearing, and to have the services of an interpreter paid for at their own expense.

(c) Written notification of the suspension or revocation, as well as the right to a hearing before the License Review Board, will be served upon the licensee at the last address shown in the records of the Revenue Administrator for the massage business or establishment. This notification will be sent by First Class mail or by

personal delivery to the premises of the massage establishment or business. Upon mailing or personal service of the notice, the massage business or establishment will have 15 days to petition for a hearing before the License Review Board. If a petition for a hearing is filed, the hearing will be set within 30 days and may be continued from time to time thereafter. If no such petition for hearing is filed, the suspension or revocation will become effective on the 16th day after mailing or personal service.

35.14.150 Appeal.

Upon the denial, revocation, or suspension of any license required by this Article by the License Review Board, the applicant or licensee may appeal to the City Council pursuant to the provisions of Article 5 of Chapter 1 of Division 1.

35.14.160 Remedies cumulative – Each day a separate offense.

Any person subject to this Article who personally, or through an agent, employee, independent contractor or other representative, violates any provision of this Article will be guilty of a separate offense for each and every day during any portion of which any such violation is committed, continued or permitted by such person. All remedies provided herein will be cumulative and not exclusive.

35.14.170 Public nuisance.

Any use or condition caused or permitted to exist in violation of any of the provisions of this Article will be and is hereby declared a public nuisance and, as such, may be abated or enjoined from further operation pursuant to Penal Code Section 370 et seq., Penal Code Section 11225 et seq., Civil Code Section 3479 et seq., Torrance Municipal Code Section 92.35.2, or any other federal, state, or local law.

35.14.180 Criminal penalties.

Any person subject to this Article who personally, or through an agent, employee, independent contractor or other representative, violates any provision of this Article commits a misdemeanor. Any person convicted of a misdemeanor will be subject to punishment by fine and/or imprisonment to the maximum extent permitted by state law.

35.14.190 Civil injunction.

The violation of any provision of this Article will be and is hereby declared to be contrary to the public interest and will, at the discretion of the City, create a cause for injunctive relief."

SECTION 3

Any inconsistent provisions of the Torrance Municipal Code, or any other inconsistent ordinances of the City, are repealed, to the extent of the inconsistencies.

SECTION 4

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, then the decision will not affect the validity of the remaining portion of the ordinance. The City Council declares that it would have passed this ordinance and each of its sections, subsections, sentences, clauses and phrases, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases might be declared invalid or unconstitutional.

SECTION 5

This ordinance will take effect thirty days after the date of its adoption. Within fifteen days following adoption, this ordinance or a summary of this ordinance, if authorized by the City Council, will be published at least once in the Daily Breeze, a newspaper of general circulation, published and circulated in the City of Torrance.

INTRODUCED AND APPROVED this ____ day of _____, 2009.
ADOPTED and PASSED this _____ day of _____, 2009.

_____
Mayor of the City of Torrance

ATTEST:

_____
Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____
Ronald T. Pohl
Assistant City Attorney

ATTACHMENT B

ORDINANCE NO. _____

SUMMARY

On _____, 2009, the City Council of the City of Torrance adopted Ordinance No. _____, relating to massage therapy regulations.

The Massage Ordinance brings the Torrance Municipal Code into compliance with Senate Bill No. 731. The Ordinance requires State Certification for all massage therapists and massage practitioners. Any person holding a valid Massage Technician Permit pursuant to Torrance Municipal Code section 35.12.1 et seq. may continue to provide massage therapy under that Massage Technician permit until December 31, 2009. Any massage business or establishment holding a valid Massage Establishment License pursuant to Torrance Municipal Code section 35.11.1 et seq. may continue to provide massage therapy services until December 31, 2009, as long as their employees, agents, independent contractors or other representatives providing massage therapy have a valid Massage Technician Permit or State Certificate.

The Ordinance provides that no massage business or establishment will provide massage therapy between the hours of 10:00 p.m. and 7:00 a.m. The Ordinance also prohibits advertising through any print or electronic media that is classified for adults only. The Ordinance provides that basic health and safety, attire, personal hygiene must be followed by all massage therapists, massage practitioners, and massage businesses or establishments. Additionally, the Ordinance requires physical facility and building code requirements. The Ordinance provides that for inspection by government officials.

The Ordinance sets forth the procedures for denial, suspension, and revocation of massage business or establishment licenses. The Ordinance also provides for an appeal procedure. Violators of the Ordinance or SB 731 may have their State Certificate or massage business or establishment license suspended or revoked. Violations of the Ordinance are subject to civil and criminal remedies.

*****City Clerk to add a paragraph stating that copies of the ordinance are available at the City Clerk's office and stating the names of the City Council members that voted in favor and those that voted against.*****

ATTACHMENT C

CITY OF
TORRANCE

FINANCE
DEPARTMENT

KENNETH A. FLEWELLYN

ASSISTANT FINANCE DIRECTOR

July 30, 2009

Dear Business owners:

This letter is to inform you that on Tuesday, July 28, 2009, the City Council held public discussions relating to the adoption of an ordinance regarding Massage Therapy. There were lengthy discussions relating to both Massage Establishments and Technicians. The Council directed staff to return on **Tuesday, August 4, 2009** with revisions to the ordinance and additional information regarding the hours of operations of massage establishments. At the August 4, 2009 City Council meeting, the Council will consider adopting an ordinance regarding Massage Therapy. The City Council meeting will be held at 7:00 p.m. in the City Council Chambers located at 3031 Torrance Boulevard, Torrance, CA 90503. A copy of the revised ordinance is available from the City Clerk's Office or may be viewed on the City's website at www.TorranceCA.Gov.

All interested persons have the right and are invited to attend this meeting and express their opinion. You may provide verbal or written testimony at the meeting. You may also submit written testimony in advance of the meeting if you are unable to attend.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the City Manager's Office at (310) 618-5880. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.

If you have any questions please feel free to contact my office at (310)618-5850.

Sincerely,

Kenneth Flewellyn
Assistant Finance Director

3031 Torrance Boulevard • Torrance, California 90503 • Telephone 310/618-5828 • Facsimile 310/618-5832

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Survey of Massage Establishments
Hours of Operation

		Monday		Tuesday		Wednesday		Thursday		Friday		Saturday		Sunday		
Torrance		Opens	Closes	Opens	Closes	Opens	Closes	Opens	Closes	Opens	Closes	Opens	Closes	Opens	Closes	Last Appointment
Burke Williams Spa	2733 PCH, G	8.00	10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	10.00	9.00	10.00	9.00	10.00	8pm
Eastern Health Massage & Spa	20201 Anza Ave	10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	9pm
Du Bunne Salon	23725 Arlington Ave	9.00	7.00	9.00	7.00	9.00	8.00	9.00	8.00	9.00	8.00	9.00	5.00	9.00	6.00	7pm
Busaba Thai Massage	1106 Crenshaw Bl	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	8pm
Healthy Spa Massage	1515 Crenshaw Bl, 102	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10pm
Natural Spa	21210 Hawthorne Bl	9.30	10.00	9.30	10.00	9.30	10.00	9.30	10.00	9.30	10.00	9.30	10.00	9.30	10.00	9pm
Just Massage Studio	22926 Hawthorne Bl	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	8pm
Torrance Spa	2780 Sepulveda Bl, 104	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9:30pm
Best Skin Care Health Spa	18547 Western Ave, 17	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	9:30pm
Redondo Beach																
Salon 911 Day Spa	911 S. Catalina	N/O	N/O	10.00	6.00	10.00	6.00	10.00	6.00	10.00	6.00	8.00	5.00	N/O	N/O	One hr before close
Indulgence Body & Skin Care	237 Avenida del Norte	N/O	N/O	9.30	8.00	9.30	8.00	9.30	8.00	9.30	8.00	10.00	6.00	10.00	5.00	One hr before close
Body Etc. European Spa	300 North Harbor Dr	10.00	7.00	10.00	7.00	10.00	7.00	10.00	7.00	10.00	8.00	10.00	8.00	10.00	7.00	
Krause Holistic Health Spa	730 S. PCH	9.00	9.00	9.00	9.00	9.00	9.00	9.00	9.00	9.00	9.00	9.00	7.00	9.00	5.30	One hr before close
Oasis Thai Massage & Spa	209 Torrance Bl, Unit B	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	One hr before close
Palmera Spa & Salon for Men	209 Torrance Bl, Unit A	10.00	5.00	10.00	5.00	10.00	5.00	10.00	5.00	10.00	5.00	10.00	5.00	12.00	5.00	Last minute
Hermosa Beach																
Tropical Waters	1559 PCH, #200	N/O	N/O	9.00	8.00	9.00	8.00	9.00	8.00	9.00	8.00	9.00	8.00	9.00	7.00	1/2 hr before close
Massage Spot	507 Pier Ave, Unit B	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	One hr before close
Alive & Well	528 PCH	9.00	9.00	9.00	9.00	9.00	9.00	9.00	9.00	9.00	9.00	9.00	7.00	9.00	7.00	One hr before close
Massage Envy Spa	1301 Manhattan Ave, C	8.00	10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	10.00	One hr before close
Molly's Skin Care	1503 Hermosa Ave	10.00	3.00	9.00	8.30	9.00	7.00	9.00	8.30	9.00	6.00	9.00	5.00	10.00	5.00	One hr before close
A Better Body Massage	1200 PCH	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	11.00	5.00	N/A
Manhattan Beach																
Body in Balance	808 Manhattan Ave	10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	One hr before close
Manhattan Health & Beauty Ctr	1006 Manhattan Bl	10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	11.00	6.00	One hr before close
The Massage Spot	1104 Highland Ave, Suite B	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	One hr before close
Trilogy Spa	451 Manhattan Bch Bl, #106	10.00	7.00	10.00	7.00	10.00	7.00	10.00	7.00	10.00	7.00	10.00	8.00	N/O	N/O	One hr before close
Massage Revolution	1133D Artesia Bl	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	10.00	9.00	One hr before close
Elegance Boutique Spa & Aesthetix	3516 Highland Ave	By appointment		10.00	7.00	10.00	7.00	10.00	7.00	10.00	7.00	10.00	7.00	By appointment		
Torrance Average		9.30	9.00	9.30	9.00	9.30	9.30	9.30	9.30	9.30	9.30	9.30	9.00	9.30	9.00	
Redondo Beach Average		10.00	7.30	10.00	7.30	10.00	7.30	10.00	7.30	10.00	7.30	9.30	6.30	10.00	6.30	
Hermosa Beach Average		9.30	8.00	9.00	9.00	9.00	8.30	9.00	9.00	9.00	8.30	9.00	8.00	9.30	7.00	
Manhattan Beach Average		10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	10.00	8.00	10.30	8.00	
Total Average		9.30	8.30	9.30	8.30	9.30	8.30	9.30	8.30	9.30	8.30	9.30	8.00	10.00	8.00	

N/O - Not Open

ATTACHMENT E

Section 1

(b) There are a number of businesses that are in fact operating as fronts for prostitution that advertise in the "adult services" section of craigslist.com and other "adults only" sections of print and electronic advertising media. These advertisements are not intended to attract legitimate massage therapy clients, but rather are intended to solicit patrons who are interested in paying for sexual services under the auspices of receiving a massage. ~~In addition,~~ According to investigations and reports by the Federal Bureau of Investigation, Immigration and Customs Enforcement, and the Department of Justice, many of these illicit massage businesses are owned and operated by human trafficking organizations. Many of these traffickers charge women tens of thousands of dollars to smuggle them into the country, and then force them to work off their debts in erotic massage parlors.

Section 35.14.060(c)

(c) It is a violation of this Article for a massage business or establishment to place an advertisement, in any print or electronic media, that does not include the State Certificate number of the massage practitioner or massage therapist that will be performing the services advertised. A massage business or establishment may comply with this subsection by listing in the print advertisement at least one State Certificate number along with a link to the website of the massage business or establishment that lists all of the State Certificate numbers of the massage practitioners or massage therapists that will be performing the services advertised.