

**ORDINANCE NO. 1704**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING CHAPTER 17.28.185 OF THE SAN CLEMENTE MUNICIPAL CODE (RELATING TO MASSAGE ESTABLISHMENTS) AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**WHEREAS**, on August 18, 2020, the City Council unanimously approved the first reading of Ordinance No. \_\_\_\_\_, an ordinance amending Title 5 (Business Licenses and Regulations) and 17 (Zoning) of the San Clemente Municipal Code (Zoning Amendment 20-069) to deter human trafficking activity, clarify existing provisions, and correct erroneous text with respect to massage establishments in the City of San Clemente (the "Massage Establishment Amendment Ordinance"); and

**WHEREAS**, on September 1, 2020, the City Council waived the second reading of and unanimously approved for publication and implementation the Massage Establishment Amendment Ordinance; and

**WHEREAS**, on September 1, 2020, the City Council held a duly noticed public hearing on two supplemental amendments to Chapter 17.28.185 with respect to regulation of the operation of massage establishments that further promote the health and safety goals of preventing and deterring prostitution and human trafficking in the City of San Clemente, and considered evidence presented by City staff and other interested parties; and

**WHEREAS**, Senate Bill 1193, approved by the Governor on September 24, 2012, and codified as California Civil Code § 52.6, requires, among other businesses, massage establishments to post a notice containing information related to slavery and human trafficking in a conspicuous place near the entrance of the establishment or in a place in clear view of the public and employees where similar notices are customarily posted; and

**WHEREAS**, the San Clemente Municipal Code does not, but should, contain a provision adopting the requirements of Senate Bill 1193 as they pertain to massage establishments; and

**WHEREAS**, the City Council recognizes that illegal activities such as pandering or prostitution occur where customers who patronize massage establishments believe they are anonymous; and

**WHEREAS**, the City Council believes that requiring operators of massage establishments to retain a record of customers' names and addresses and dates and times of patronage would deter customers, operators, and therapists from engaging in

any illicit activity.

**NOW, THEREFORE,** the City Council of the City of San Clemente does ordain as follows:

**Section 1:** The recitals above, as well as those set forth in Ordinance No. \_\_\_\_\_, are each incorporated by reference and adopted as findings by the City Council.

**Section 2:** Pursuant to CEQA Guidelines Sections 15378(b)(2) and 15378(d)(5), these supplemental amendments are not a "project" within the meaning of the State CEQA Guidelines, because they relate to ongoing administrative activities and organizational activities of government that will not result in direct or indirect physical changes in the environment. No further environmental review is required.

**Section 3:** Chapter 17.28.185 of the San Clemente Municipal Code is hereby amended to read as follows:

"Section 17.28.185 – Massage Establishments.

...

**D. Facility Requirements.**

...

2. Anti-Human Trafficking Notice. The notice developed by the Department of Justice and found at <https://oag.ca.gov/human-trafficking/model-notice>, of a size no smaller than eight and one-half inches by 11 inches in size, shall be posted in English, Spanish, and Vietnamese in the customer waiting room so as to be visible to all people entering the establishment, as well as in every private massage room.

...

**E. Operational Requirements.**

...

14. Every massage establishment shall keep a written record of the date and hour of each treatment administered, the name and telephone number of each patron, the name of the massage therapist or massage practitioner administering treatment, and the type of treatment administered, to be recorded on a patron release form. In addition, every massage establishment shall obtain and retain (and every patron shall provide) a copy of the patron's driver's license or other state-issued photo identification at the time of a patron's first visit to the massage establishment. If a patron refuses to provide his/her photo identification for photocopying by the operator, the operator shall refuse service to the patron. Such records shall be open to inspection by officials charged with enforcement of this section as authorized by the law or court order, if necessary. Such records

shall be kept on the premises of the massage establishment for a period of two years."

**Section 4:** The City Clerk shall certify to the adoption of this ordinance and cause it, or a summary of it, to be published once within fifteen (15) days of adoption in a newspaper of general circulation printed and published within the City of San Clemente, and shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with California Government Code section 36933.

**Section 5:** If any provision of this ordinance or its application to any person or circumstance is held invalid, such invalidity has no effect on the other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this resolution are severable. The City Council declares that it would have adopted this resolution irrespective of the invalidity of any portion thereof.

**Section 6:** The documents and materials associated with this Ordinance that constitute the record of proceedings on which the City Council's findings and determinations are based are located at City Hall, 910 Calle Negocio, San Clemente, CA 92672.

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

ATTEST:

\_\_\_\_\_  
City Clerk of the City of  
San Clemente, California

\_\_\_\_\_  
Mayor Pro Tem of the City of  
San Clemente, California

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss.  
CITY OF SAN CLEMENTE )

I, JOANNE BAADÉ, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. \_\_\_\_\_ having been regularly introduced at the meeting of \_\_\_\_\_, was again introduced, the reading in full thereof unanimately waived, and duly passed and adopted at a regular meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
CITY CLERK of the City of  
San Clemente, California

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY