

ORDINANCE NO. 358

AN ORDINANCE DEFINING THE BUSINESS, PROFESSION OR VOCATION OF A MASSAGE OPERATOR AND A MASSAGE OPERATOR APPRENTICE; PROVIDING CERTAIN RULES AND REGULATIONS FOR THE PRACTICE, PURSUIT OR CONDUCT THEREOF AND FOR THE LICENSING OF SUCH MASSAGE OPERATOR AND SUCH MASSAGE OPERATOR APPRENTICE; THE APPOINTMENT OF A BOARD OF EXAMINERS; PROHIBITING THE PRACTICE, PURSUIT OR CONDUCT OF SUCH PROFESSION, VOCATION OR BUSINESS OF MASSAGE OPERATOR OR MASSAGE OPERATOR APPRENTICE WITHOUT FIRST HAVING SECURED THEREOF A PERMIT AND/OR LICENSE IN COMPLIANCE WITH THE REQUIREMENTS AND PROVISIONS SET FORTH IN SAID ORDINANCE, AND MAKING CERTAIN EXEMPTIONS AS SET FORTH IN SAID ORDINANCE; REPEALING ALL LAWS AND PARTS OF LAWS IN CONFLICT HEREWITH, AND PROVIDING A PENALTY FOR THE VIOLATION OF SAID ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1: DEFINITIONS

(a) That wherever the words, phrase or expression "Massage Operator" appear in this ordinance the same shall be defined and construed to mean any person, who for fee, hire or reward (or without fee, hire or reward when done for the public generally) shall give external hydrotherapy, heliotherapy, fomentations, sweat baths, steam baths, sponge baths, dry hot room baths, Turkish baths, Russian baths, Swedish baths, medicated baths, massages, salt glows, electric light baths, sun baths, alcohol rubs, oil rubs or plain rubs or exercise, upon or to the human trunk or limbs.

(b) That a "Massage Operator Apprentice" is hereby defined as any person who is engaged in learning and acquiring knowledge of the art and practice of giving external hydrotherapy, fomentations, sweat baths, steam baths, sponge baths, dry hot room baths, Turkish baths, Russian baths, Swedish baths, medicated baths, massages, salt glows, electric light baths, sun baths, or alcohol rubs, oil rubs or plain rubs or exercise, upon or to the human trunk or limbs.

(c) That a Massage Parlor or Establishment for the purposes of this ordinance shall be deemed to mean a room or suite of rooms or a building where external hydrotherapy, fomentations, sweat baths, steam baths, sponge baths, dry hot room baths, Turkish baths, Russian baths, Swedish baths, medicated baths, massages, salt glows, electric light baths, sun baths, or alcohol rubs, oil rubs, plain rubs, or exercises, are given upon or to the human trunk or limbs.

(d) That for the purposes of this ordinance, wherever the terms "license" or "permit" are used they shall be deemed to apply to the permit issued by the City Board of Massage Examiners of Miami Beach, and in no way refer to the occupational license as used by the Department of Finance of the City of Miami Beach, and the term "licensee" shall be deemed to mean one who has a permit or license from the City Board of Massage Examiners of Miami Beach, and in no way refers to the occupational license as used by the Department of Finance of the City of Miami Beach.

SECTION 2: LICENSE OR PERMIT REQUIRED

That from and after the 7th day of September, A. D., 1934, it shall be unlawful for any person to engage in, pursue or carry on within the City of Miami Beach, Florida, the profession, vocation or business of a Massage Operator or a Massage Operator Apprentice unless such person shall have first obtained a license or permit to act as a Massage Operator or Massage Operator Apprentice from the City Board of Massage Examiners of the City of Miami Beach, Florida.

SECTION 3: BOARD OF EXAMINERS OF MASSAGE OPERATORS

The City Council shall appoint a Board of Massage Examiners to be composed of at least three (3) members who shall be qualified licensed Massage Operators (and one of whom shall be a licensed Naturopathic Physician in the State of Florida), who shall hold office at the pleasure of the City Council and shall serve without compensation

and who shall conduct examinations on the first Monday in December and June of each year, and at such other times as the City Council may deem necessary, as to the ability and knowledge of the applicant for license or permit to act as a Massage Operator, in the subjects of anatomy and in the essentials of massage, hydrotherapy, heliotherapy, the principles of first aid, and such further reasonable tests as the Board of Massage Examiners may deem necessary.

**SECTION 4. REQUISITES FOR LICENSE OR PERMIT FOR MASSAGE OPERATOR**

That any person shall be entitled to receive from the Board of Massage Examiners of Miami Beach, Florida, a license or permit authorizing him or her to practice the profession, vocation or business of a Massage Operator who shall:

(a) File with the Board of Massage Examiners of the City of Miami Beach, Florida, a sworn application giving the following information: (1) Name; (2) Residence; (3) Sex; and (4) citizenship of applicant;

(b) Present to the Board of Massage Examiners of the City of Miami Beach, Florida, satisfactory evidence that the applicant is at least twenty-one (21) years of age and of good moral character;

(c) Pay to the City of Miami Beach, Florida, an examination fee of Ten Dollars (\$10.00) upon filing application for license or permit.

(d) Furnish a certificate of physical examination signed by the Chief of the Division of Public Health of the City of Miami Beach, Florida, declaring the applicant to be free from any contagious, infectious or communicable disease in a communicable state, such examination having taken place and certificate issued within the preceding thirty (30) days and such examination shall have been made and certificate issued by the said Chief of the Division of Public Health of the City of Miami Beach, and this medical certificate shall be renewed every one hundred and eighty days;

Such examination shall be made and such certificate issued at a cost not to exceed \$2.50; and in the event such certificate is lost and satisfactory proof of loss is given, a duplicate will be issued for fifty cents (50¢); further, providing that no portion of this section shall preclude additional examinations without additional cost to any massage operator at any time when deemed advisable by the Chief of the Division of Public Health, or the Board of Massage Examiners.

(e) Furnish to the City Board of Massage Examiners of Miami Beach satisfactory evidence that said applicant is a qualified massage operator, such evidence to include, either:

1. A certificate from a recognized school; or
2. Evidence that applicant has had twelve months experience as a practicing massage operator under a qualified massage operator, who has had at least two years experience.

(f) Evidence satisfying the Board of Massage Examiners as to his or her ability and qualifications to act as a massage operator through standing an examination on the following subjects: MASSAGE, ANATOMY, PHYSIOLOGY, HYDROTHERAPY, HELIOTHERAPY, AND MAGNETIC HEALING AND PRINCIPLES OF FIRST AID.

(g) Pass a written examination by a rating of seventy-five per cent on the questions provided in each of the subjects named, and who shall have satisfied the members of said Board of Massage Examiners by such practical demonstration as may be required of his or her fitness to practice as a Massage Operator. A license or certificate shall be then issued under the seal of the Board, countersigned by members of the Board of Massage Examiners. In the event of failure on examination said applicant shall have the privilege of taking an examination at the next regular or called meeting of the Board of Massage Examiners, without an additional application fee.

**SECTION 5:**

That any person shall be entitled to receive from the Board of Massage Examiners of Miami Beach, Florida, a license or permit

authorizing him or her to engage in learning and acquiring knowledge of the art and practices of a qualified licensed Massage Operator, who shall:

(a) File with the Board of Massage Examiners of the City of Miami Beach, Florida, a sworn application giving the following information: (1) Name; (2) Residence; (3) Sex; and (4) Citizenship of the applicant.

(b) Present to the Board of Massage Examiners satisfactory evidence that the applicant is at least twenty-one (21) years of age and of good moral character;

(c) Pay to the City of Miami Beach a registration fee of Ten Dollars (\$10.00) upon filing application for license or permit to act as a Massage Operator Apprentice.

(d) Furnish a certificate of physical examination signed by the Chief of the Division of Public Health, declaring the applicant to be free from any contagious, infectious or communicable disease in a communicable state, such examination having taken place and certificate issued within the preceding thirty (30) days and such examination shall have been made and certificate issued by a Medical Officer or by the Chief of the Division of Public Health of the City of Miami Beach, and this medical certificate shall be renewed every one hundred and eighty (180) days;

Such examination shall be made and such certificate issued at a cost not to exceed \$2.50; and in the event such certificate is lost and satisfactory proof of loss is given, a duplicate will be issued for fifty cents (50¢); further, providing that no portion of this section shall preclude additional examinations without additional cost to any Massage Operator or Massage Operator Apprentice at any time when deemed advisable by the Board of Massage Examiners or by the Chief of the Division of Public Health.

(e) Furnish to the Board of Massage Examiners a statement from a licensed Massage Operator that the licensed Massage Operator is offering the applicant for Massage Operator Apprentice permit or license a position.

(f) Present evidence by affidavits of at least five reputable citizens of the City of Miami Beach that these citizens have been acquainted with the applicant for apprentice's permit or license for at least one year and that the said applicant is of good moral character.

#### SECTION 6:

It shall be unlawful for any person licensed under the provisions of this ordinance to conduct, supervise or manage, either as owner or proprietor, any massage parlor or establishment in the City of Miami Beach where any of the services mentioned in Section One of this ordinance are rendered or given unless such person shall first file with the Board of Massage Examiners of the City of Miami Beach a notice in writing, duly sworn to by such licensee, which notice shall state the street and number (and if a building, the room number) where such massage parlor or establishment shall be operated, and shall further furnish to the Board of Massage Examiners the name of the Massage Operator under whose supervision the Massage Parlor or establishment is operated.

#### SECTION 7:

It shall be unlawful for any person licensed under the provisions of this ordinance who is conducting, supervising, or managing, either as owner or proprietor, any parlor or establishment in the City of Miami Beach where any of the services mentioned in Section One of this ordinance are rendered or given to change the address or location of such parlor or establishment from that designated in the written notice required by Section Six of this ordinance without first giving the Board of Massage Examiners of the City of Miami Beach a written notice of such proposed change and designating in writing the new address or location of such parlor or establishment.

SECTION 8:

The Board of Massage Examiners is hereby authorized and directed, either personally or by any of their authorized inspectors or agents designated by them for such purpose, at least once a year and at such other time or times as to them shall seem necessary or expedient to enter upon any premises where a massage parlor or establishment is maintained in the City of Miami Beach and inspect such parlor or establishment for the purposes of enforcing the provisions of this ordinance, and where violation is discovered it shall be the duty of said Board of Massage Examiners to report to the City Council the person or persons guilty of such violation.

SECTION 9: REFUSAL AND REVOCATION OF LICENSE OR PERMIT

The Board of Massage Examiners may either refuse to renew, or may suspend or revoke any license or permit issued by them under the provisions of this ordinance for any one or more of the following causes:

- (a) Knowingly pursuing the profession, vocation or business of a Massage Operator or Apprentice with an infectious or contagious disease in its communicable state;
- (b) Knowingly employing any Massage Operator or Apprentice having an infectious or contagious disease in its communicable state;
- (c) Knowingly employing in any massage parlor or establishment a person not of good moral character and chaste conduct;
- (d) Knowingly making any false statement in application for a permit or license hereunder.

No such permit shall be suspended or revoked unless written charges specifying the particular cause or causes for suspension or revocation shall be served upon the licensee charged against either by or under the authority of the Board of Massage Examiners at least ten days prior to such suspension or revocation. In the event any licensee charged against shall during said ten day period, signify in writing to the Board of Massage Examiners his or her desire to be heard upon such charges, the Board of Massage Examiners shall set said charges down for hearing at a specified time and shall give such licensee reasonable notice of the time and place of such hearing. Any licensee so charged against shall be permitted at his or her sole expense, to cause a stenographic report of the proceedings upon such hearing to be made. After said hearing, said Board of Massage Examiners shall make a full and true report of their findings to the City Council for such action as the said City Council may deem advisable.

SECTION 10: REVOCATION OF LICENSE OR PERMIT AUTOMATICALLY.

The conviction in the Municipal Court of the City of Miami Beach of any person licensed hereunder of any law or ordinance of said City prohibiting the keeper of bawdy or disorderly houses or places, or of any other law or ordinance of said City prohibiting lewd or lascivious conduct or behaviour shall automatically revoke the license or permit of such person so convicted and the same shall thereupon ipso facto become null and void; and it shall thereafter be unlawful for any person so convicted to engage in the profession or vocation of a massage operator or apprentice or to maintain, carry on or conduct, either as owner or proprietor, any place or establishment in the City of Miami Beach where any of the services mentioned in Section One of this ordinance are rendered or given.

SECTION 11: DURATION OF LICENSE OR PERMIT; AND RENEWAL THEREOF.

Each license or permit granted under the provisions of this ordinance shall expire on the 31st day of October next following the date upon which such license or permit is issued, and any such license or permit may be renewed only upon compliance with the provisions of this ordinance regulating the original issuance of such license or permit and payment of renewal fee of \$5.00.

SECTION 12:

Every person licensed under the provisions of this ordinance who shall conduct or manage, as owner or proprietor, any place or establishment where any of the services mentioned in Section One of this ordinance are rendered or given shall display a sign upon which the words "Licensed Massage Operator", "Licensed Masseur", "Licensed Masseuse," or "Licensed Massage Establishment," or "Licensed Massage Parlor" shall be conspicuously and legibly set forth in the English Language in such manner that the words may readily be seen by persons entering the premises where massage is given.

SECTION 13:

From and after the 7th day of September, A. D., 1934 it shall be unlawful for any person to display or cause to be displayed within the City of Miami Beach, Florida, any sign, placard or newspaper advertisement whereby public patronage of any massage operator or massage parlor or establishment is solicited, either directly or indirectly, or whereby the public is given notice of the address or telephone number of any massage operator or massage establishment, unless the massage operator, or the massage parlor or establishment for whom such public patronage is thereby solicited or the massage operator or massage parlor or establishment whose address or telephone number is thereby given, shall be duly licensed under the provisions of this ordinance.

SECTION 14:

From and after the 7th day of September, A. D., 1934, it shall be unlawful for any person to operate, maintain, carry on, or conduct any massage parlor or establishment in the City of Miami Beach where any of the services mentioned in Section One of this Ordinance are given or rendered unless such massage parlor or establishment is at all times under the direct supervision or management of a licensed Massage Operator, except as provided for in Section 15 of this ordinance.

SECTION 15: EXEMPTIONS

This ordinance shall not be deemed or held to apply to:

- (a) Persons lawfully practicing the profession of medicine and surgery, Chiropractic, Osteopathy or Naturopathy within the State of Florida, while actually engaged in the practice of either of said profession;
- (b) Commissioned medical surgical officers of the United States, Army, Navy, Public Health or Marine Hospital Service while engaged in the performance of their official duties;
- (c) Graduate nurses while performing their professional duties, and hospital attendants while performing services for resident patients of any hospital.
- (d) Persons lawfully following the vocation of a barber, barber apprentice, beauty culturist, beauty culture specialist or beauty culture apprentice, in the City of Miami Beach, while actually engaged in the pursuit of any or either of such vocations;
- (e) Hospitals lawfully operating within the City of Miami Beach, Florida.
- (f) And such other professions or vocations as may be provided from time to time by the Florida State Law.

SECTION 16:

The provisions of this ordinance and the regulations herein imposed by the ordinances of the City of Miami Beach or the laws of the State of Florida, and each and every act in violation of the provisions of this ordinance, or any provisions thereof, shall constitute a separate and distinct offense, punishable as hereinafter provided.

SECTION 17:

The Chief of the Division of Public Health shall have the power to adopt and enforce such reasonable rules and regulations governing massage parlors or establishments as he may deem proper and necessary for the protection of the health, morals and welfare of the inhabitants of the City of Miami Beach, Florida, or its police jurisdiction, and violations of such rules and regulations shall be subject to penalty as provided for in Section 19 of this ordinance.

SECTION 18:

Should any of the provisions or sections or parts of sections of this ordinance be declared invalid in any judicial proceedings, such partial invalidation shall not be deemed to affect the remainder of the ordinance.

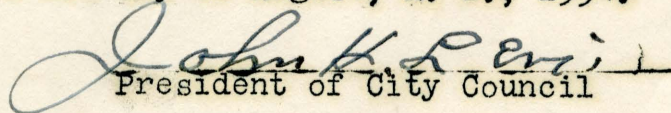
SECTION 19:

Any person, upon conviction of the violation of any provision or provisions, sentence or sentences, section or parts of sections of this ordinance, shall be punished by a fine of not less than \$25.00 nor more than \$200.00, or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment in the discretion of the Municipal Judge.

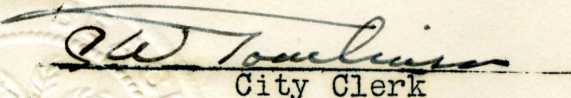
SECTION 20:

All laws or parts of laws in conflict herewith are hereby repealed.

PASSED AND ADOPTED this 1st day of August, A. D., 1934.

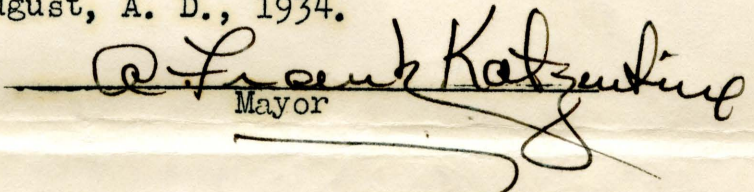
  
President of City Council

ATTEST:

  
City Clerk

(SEAL)

APPROVED this 6<sup>th</sup> day of August, A. D., 1934.

  
Mayor

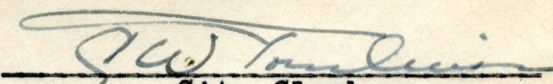
1st Reading, July 18th, 1934.  
2nd Reading, July 18th, 1934.  
3rd Reading, August 1st, 1934.  
Posted - August 7th, 1934.

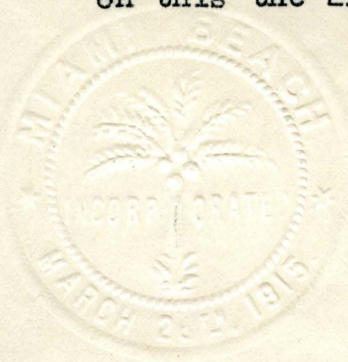
STATE OF FLORIDA)

COUNTY OF DADE )

I, C. W. TOMLINSON, City Clerk in and for the City of Miami Beach, Florida, do hereby certify that Ordinance No. 358 entitled "AN ORDINANCE DEFINING THE BUSINESS, PROFESSION OR VOCATION OF A MASSAGE OPERATOR AND A MASSAGE OPERATOR APPRENTICE; PROVIDING CERTAIN RULES AND REGULATIONS FOR THE PRACTICE, PURSUIT OR CONDUCT THEREOF AND FOR THE LICENSING OF SUCH MASSAGE OPERATOR AND SUCH MASSAGE OPERATOR APPRENTICE; THE APPOINTMENT OF A BOARD OF EXAMINERS; PROHIBITING THE PRACTICE, PURSUIT OR CONDUCT OF SUCH PROFESSION, VOCATION OR BUSINESS OF MASSAGE OPERATOR OR MASSAGE OPERATOR APPRENTICE WITHOUT FIRST HAVING SECURED THEREOF A PERMIT AND/OR LICENSE IN COMPLIANCE WITH THE REQUIREMENTS AND PROVISIONS SET FORTH IN SAID ORDINANCE, AND MAKING CERTAIN EXEMPTIONS AS SET FORTH IN SAID ORDINANCE; REPEALING ALL LAWS AND PARTS OF LAWS IN CONFLICT HEREWITH, AND PROVIDING A PENALTY FOR THE VIOLATION OF SAID ORDINANCE," having been duly passed and adopted by the City Council of the City of Miami Beach, Florida, has been posted by me in three conspicuous places in the City of Miami Beach, one of which was at the door of the City Hall in said City on the 7th day of August, A. D., 1934, and that said ordinance remained posted for a period of at least thirty days in accordance with the requirements of the City Charter of the said City of Miami Beach.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Miami Beach, Florida, on this the 21st day of September, A. D., 1934.

  
City Clerk



(ORIGINAL)

ORDINANCE NO. 358

Regulating Massage  
Operators.