

ORDINANCE NO. 1236

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF SIMI VALLEY ESTABLISHING A
MORATORIUM ON THE ISSUANCE OF ANY NEW
PERMIT, LICENSE, APPROVAL OR ENTITLEMENT
RELATED TO NEW OR EXPANSION OF MASSAGE
ESTABLISHMENTS

THE CITY COUNCIL OF THE CITY OF SIMI VALLEY DOES ORDAIN AS
FOLLOWS:

SECTION 1. Findings. The Simi Valley City Council finds, determines,
and declares as follows:

A. Senate Bill 731, effective January 1, 2009, established a state
licensing process for massage therapists and practitioners, and substantively eliminated
local control over massage practitioners and establishments as codified in Business and
Professions Code 4600, et seq.

B. In 2009, the Simi Valley Chief of Police reported to the City Council
a marked increase in applications for massage establishments and sole-proprietor
practitioners with a total 29 licensed establishments and 320 licensed massage
therapists. City law enforcement and regulatory officials had reason to believe that
most of the increase was related to operations that may engage in prostitution or other
unlawful activity. The City of Simi Valley responded with a Massage Ordinance (Title 5,
Chapter 15) that regulated massage business owners, establishments, and massage
practitioners to the extent allowed by SB 731.

C. In 2011, Assembly Bill 619, and in 2012 Senate Bill 1238, further
amended sections of Business and Professions Code Section 4600 et seq., additionally
limiting the City's ability to regulate massage establishments.

D. Effective January 1, 2015, the City's authority to regulate massage
establishments was significantly restored due to the passage of Assembly Bill 1147,
allowing the City to study and consider measures to ensure the City's Zoning Ordinance
is consistent with the City's General Plan's goals to protect the public health, safety and
welfare, community character and quality of life and comply with state law.

E. At the end of 2014, the City has 29 licensed establishments and 84
licensed practitioners. The City Council finds, however, that law enforcement staff have
received an increasing list of complaints of suspected illicit activity occurring at massage
establishments, and therefore, require a higher level of scrutiny and Police Department
support and enforcement to ensure compliance with City and state laws.

F. The Police Department report that the number of establishments advertising in a sexually explicit manner and reviewed for sexual activities on-line and in adult entertainment media avenues has dramatically increased, strongly suggesting an increase in illicit activity.

G. Other Cities throughout the state including the City of Ventura have reported similar increases in establishments and reports of illicit advertising and activities.

H. Although massage establishments generally have a legal status similar to other professional services, such as medical, dental and law offices, the City of Simi Valley, similar to and in accord with the findings made by other cities in the county such as the City of Ventura, finds that massage businesses frequently do not conduct themselves like other professional service businesses, despite certification by CAMTC of their employees; and

I. The City Council recognizes that the oversaturation of massage establishments changes the character of a neighborhood, causes blight, and concentration of land uses and associated illicit activities impacts the quality of life, health and safety for residents of the City of Simi Valley. It is urgent that the City undertake a review of current massage regulations in order to determine an appropriate response to AB 1147 to ensure consistency with the Massage Ordinance and the Massage Act (State law), and to study land use issues related to CUPs, concentration, saturation, operational characteristics, and consistency with the General Plan, that will allow legitimate therapeutic massage business to exist, while discouraging unlawful sexual activity and human trafficking associated with prostitution.

SECTION 2. Imposition of Moratorium on New or Expanded Massage Establishments.

A. The findings and determinations in Section 1 are true and correct.

B. Based on the foregoing, the City Council finds and declares there is a current and immediate threat to the public health, safety or welfare, and upon that basis has determined that an urgency Ordinance pursuant to Government Code Section 65858 is warranted and shall take effect on January 12, 2015, upon adoption by a four-fifths vote of the City Council.

C. From the effective date of this Ordinance, and continuing for a period of forty-five (45) days, unless later extended by the City Council pursuant to California Government Code Section 65858, no permits, license, tax certificates, approvals, or entitlements shall be issued for establishment or expansion of massage establishments (Massage Establishments) as defined in and pursuant to Simi Valley Municipal Code Title 5, Chapter 15 relating to such businesses. This Ordinance shall not prevent inspection or enforcement activities relating to existing Massage Establishments and massage professionals, and all applicable sections of the Simi Valley Municipal Code relating to enforcement thereof shall remain in full force and effect.

D. The City Council directs staff to study modifications to the City's land use and regulatory ordinances within the framework provided in AB 1147, including CUPs, saturation, concentration, zoning, and health and safety, relating to the effects of massage establishments, and to develop methods to reduce the negative secondary effects created by the number, location and illegal uses of massage establishments. Such studies should also ensure consistency between State Law and the General Plan. Pending completion of such studies and the adoption of an ordinance to establish appropriate operation and zoning regulations, it is necessary for the immediate preservation of the public health, safety and welfare that this Ordinance take effect on January 12, 2015.

E. This Ordinance shall not, by itself, preclude the continued operation of any lawfully existing massage establishment operations which do not seek to expand, convert, or relocate their operations, or the operation of any massage establishment for which any and all discretionary and non-discretionary approvals have been made prior to the effective date of this Ordinance. However, enforcement of all applicable Simi Valley Municipal Code sections relating to such businesses shall continue.

F. The violation of any of the provisions of the Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance.

SECTION 3. Severability. If any provision of this Ordinance is declared invalid by a court of competent jurisdiction, adjudicated to a final determination, the City Council finds that said voided part is severable, that the City Council would have adopted the remainder of this Ordinance without the severed and voided part, and that the remainder of this Ordinance shall remain in full force and effect.

SECTION 4. Incompatible Provisions. To the extent any provision of this Ordinance is incompatible with or at variance with any prior adopted ordinance or resolution, the provision of this Ordinance shall take precedence.

SECTION 5. The City Clerk shall cause this Ordinance or a summary hereof to be published in accordance with Section 36933 of the California Government Code, shall certify to the adoption of this ordinance and shall cause a certified copy of this ordinance, together with proof of publication, to be filed in the Office of the Clerk of this City.

PASSED AND ADOPTED this 12th day of January 2015.

Attest:

/s/
Ky Spangler, Assistant City Clerk

/s/
Robert O. Huber, Mayor of the City of
Simi Valley, California

Approved as to Form:

Approved as to Content:

/s/
Lonnie J. Eldridge, City Attorney

/s/
Eric J. Levitt, City Manager

/s/
Peter Lyons, Director
Department of Environmental Services