

ORDINANCE NO. 2256

AN ORDINANCE OF THE CITY OF CHULA VISTA ADDING
CHAPTER 5.35 AND AMENDING SECTIONS 5.36.030
AND 5.36.330 OF THE CHULA VISTA MUNICIPAL
CODE RELATING TO BATHHOUSES

The City Council of the City of Chula Vista does ordain
as follows:

SECTION I: Chapter 5.35 is hereby added to Title 5 of
the Chula Vista Municipal Code to read as follows:

CHAPTER 5.35 BATHHOUSES.

Sec. 5.35.101 Definitions.

Whenever in this Chapter the following words or phrases
are used, they shall mean:

- A. "Bathhouse" shall mean any establishment having a fixed place of business where any person engages in, conducts, or carries on any business of providing Turkish, Russian, Swedish, Finnish, not air, vapor, electric cabinet, steam sweat, mineral, salt, sauna, fomentation, alcohol, shower, tub or sponge baths, soaking facilities such as a spa, or baths of any kind whatsoever. Any establishment carrying on or permitting any combination of massage and bathhouse shall be deemed a massage establishment and not a bathhouse. "Bathhouse" shall not include hospitals, nursing homes, sanitariums, or establishments where a person provides baths pursuant to his or her unrevoked certificate to practice the healing arts under the laws of the State of California. "Bathhouse" shall not include hotels, motels, and similar lodging establishments. "Bathhouse" shall not include establishments primarily providing physical fitness services, except where cubicles, rooms, or booths are provided for use by individual patrons of such establishments.
- B. "Person" shall mean any natural person, firm, association, club, organization, partnership, business trust, corporation, company, or any other entity whatsoever which is recognized by law as the subject of rights of duties.

Sec. 5.35.102 License Required.

It shall be unlawful for any person to operate, maintain or keep in the city any bathhouse without an annual license therefor issued by the Director of Public Safety. The license, or any renewal thereof, may be denied if the bathhouse operation as proposed does not comply with the provisions of this chapter, regulations adopted pursuant to this chapter, and all other applicable laws, including, but not limited to, applicable building and fire codes.

Sec. 5.35.103 Application for License or Renewal.

Any person desiring a license or renewal thereof required by this chapter shall make application to the Director.

Sec. 5.35.104 Application for a Bathhouse License.

The application for a license to operate a bathhouse shall set forth the exact nature of the baths to be administered, the proposed place of business and facilities therefor, and the name and address of each applicant. In addition to the foregoing, any applicant for a bathhouse license shall furnish the following information.

- A. The two previous addresses immediately prior to the present address of applicant.
- B. Written proof that the applicant is over the age of 18 years.
- C. Applicant's height, weight, color of eyes and hair.
- D. Two portrait photographs at least 2" x 2".
- E. Business, occupation, or employment of the applicant for the three years immediately preceding the date of the application.
- F. The bathhouse or similar business license history of the applicant; whether such person, in previously operating in this or another county or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
- G. All criminal convictions except minor traffic violations.

- H. Such other identification and information necessary to discover the truth of the matters hereinbefore specified as required to be set forth in the application.
- I. Nothing contained herein shall be construed to deny to the Director the right to take fingerprints and additional photographs of the applicant, nor shall anything contained herein be construed to deny the right of said Director to confirm the height and weight of the applicant.
- J. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation; the names and residence addresses of each of the officers, directors and each stockholder owning more than 10 percent of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and residence address of each of the partners, including limited partners.

Sec. 5.35.105 Annual License Application Fee.

The annual nonrefundable application fee for the license required by this chapter shall be \$100.00.

Sec. 5.35.106 Facilities Necessary.

No permit to conduct a bathhouse shall be issued unless an inspection by the Director and the Health Officer reveals that the establishment complies with each of the following minimum requirements:

- A. Construction of rooms used for toilets, tubs, steam baths, and showers shall be made waterproof with approved waterproof materials.
 - 1. For toilet rooms, toilet room vestibules and rooms containing bathtubs, there shall be a waterproof floor covering, which will be carried up all walls to a height of at least six inches. Floor shall be covered up on base with at least 3/4 inch cover. The walls of all toilet rooms and rooms containing bathtubs shall be finished to a height of six feet from a smooth, nonabsorbant finish surface of Keene cement, tile, or similar material.

2. Steam rooms and shower compartments shall have approved waterproof floors, walls and ceilings.
 3. Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sewer. (Exception: dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.)
 4. A source of hot water shall be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.
- B. Toilet facilities shall be provided in convenient locations, and every bathhouse shall provide at least one water closet. When five or more employees and patrons of each sex are on the premises at the same time, separate toilet facilities shall be provided. A single watercloset per sex shall be provided for each 20 employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets in the toilet facility for males after one water closet has been provided; provided however, that there shall be at least one water closet for each 60 employees or patrons of the male sex. All toilet rooms shall be equipped with self-closing doors opening in the direction of ingress to the toilet rooms. Toilets shall be designated as to the sex accommodated therein.
- C. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or the vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.
- D. All portions of bathhouse establishments and baths shall be provided with adequate light and ventilation by means of windows or skylights with an area of not less than 1/8 of the total floor area, or shall be provided with approved artificial light and a mechanical operating ventilating system. Areas of the bathhouse, other than those areas provided only to individual patrons, shall at all times during bathhouse operation have a direct illumination level of at least 15 footcandles of light measured 30 inches above the floor. When windows or skylights are used for ventilation, at least 1/2 of the total required window area shall be operable.

To allow for adequate ventilation, cubicles, rooms, and areas provided for patrons' use not served directly by a required window, skylight, or mechanical system or ventilation shall be constructed so that the height of partitions does not exceed 75 percent of the floor-to-ceiling height of the area in which they are located.

Sec. 5.35.107 Operating Requirements.

All bathhouse licensees shall comply with the following operating requirements:

- A. Every portion of a public bathhouse, including appliances, apparatus, and personnel, shall be kept clean and operated in a sanitary condition.
- B. All employees shall be clean and wear outer garments, whose use is restricted to the bathhouse. Provision for separate dressing rooms for each sex must be available on the premises, with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.
- C. All bathhouses shall be provided with clean laundered sheets and towels in sufficient quantities and shall be laundered between consecutive uses thereof and stored in an approved sanitary manner. No towels or sheets shall be laundered or dried in any public bathhouse unless such establishment is provided with approved laundry facilities for such laundering and drying. Approved receptacles shall be provided for the storage of soiled linens and paper towels.
- D. Wet and dry heat rooms, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.
- E. Provide educational programs for patrons in accordance with standards promulgated by the Health Officer in consultation with the San Diego Regional Task Force on AIDS.

Sec. 5.35.108 Issuance of License for Bathhouse.

The Director shall issue a Bathhouse License if all the requirements for a bathhouse described in this chapter are met and shall issue a license to any person who has applied for a permit to operate a bathhouse unless the Director finds:

- A. That the operation as proposed by the applicant, if permitted, would not comply with all applicable laws.
- B. That the applicant or any other person who will be directly engaged in the management and operation of a public bathhouse has been convicted of:
 1. An offense involving conduct which required registration pursuant to Section 290 of the Penal Code.
 2. An offense involving the use of force and violence upon the person of another that amounts to a felony.
 3. An offense involving sexual misconduct with children.
 4. An offense as defined under Sections 311, 647, subdivision (a), 647a, 315, 316, or 318 of the Penal Code of the State of California.
 5. The Director shall disregard any conviction mentioned in subsections (a), (b), (c) or (d) of this section if he finds that the applicant has fully completed any sentence imposed because of such conviction and has fully complied with any conditions imposed because of such conviction, which conviction has occurred at least three years prior to the date of application and the applicant has not subsequently been convicted of any of the crimes herein mentioned.

Sec. 5.35.109 Register to be Maintained.

The operator of a bathhouse must maintain a register of all persons employed as an employee of a bathhouse, which register shall be available for inspection at all times during regular business hours. The register shall contain the following information for each employee:

- A. Name and residence address.
- B. Social Security number and driver's license number, if any.
- C. Employee's height, weight, color of eyes and hair.
- D. Written evidence that the employee is over the age of 18 years.
- E. Business, occupation or employment of the employee for the three years immediately preceding the date of beginning employment with the bathhouse.
- F. The Director shall have the right to take fingerprint and photographs of an employee and the right to confirm the information contained in the register.

Sec. 5.35.110 Employment of Persons Under the Age of Eighteen Years Prohibited.

It shall be unlawful for the owner, proprietor, manager or any other person in charge of any bathhouse to employ any person under the age of 18 years.

Sec. 5.35.111 Sale or Transfer.

Upon sale, transfer or relocation of a bathhouse, the license therefor shall be null and void.

Sec. 5.35.112 Name and Place of Business - Change of Location.

No person granted a license pursuant to this chapter shall operate under any name or conduct his or her business under any designation or in any location not specified in his or her permit.

Sec. 535.113 Daily Register.

Every person who engages in or conducts a public bathhouse as herein defined shall keep a daily register, approved in form by the Director, of the number of patrons admitted, their hour of arrival and their hour of departure. Said daily register shall at all time during business hours be subject to inspection by the Health Officer and by the Director and shall be kept on file for one year.

Sec. 5.35.114 Locked Cubicle, Room, Booth, Etc.

No service enumerated in Section 5.35.101A of this chapter may be carried on within any cubicle, room, or booth, or in any area within a bathhouse by whatever designation whatsoever which is fixed with a door capable of being locked.

Sec. 5.35.115 Private Rooms.

No private room, as hereinafter defined, shall be maintained within any bathhouse. "Private room: shall mean any enclosed space large enough for more than one person to enter with a door capable of being locked from the inside, unless one or more of the following applies:

- A. There is an opening no less than five feet for more than six feet above the floor through which the full exterior of the enclosure is viewable from the exterior; or
- B. The enclosure is not made available for use by patrons of the establishment; or
- C. No more than one person at a time is allowed to enter the enclosure, the occupancy restriction is conspicuously posted on the entrance to the enclosure, and there are no openings between any adjoining enclosures through which physical contact between persons in adjoining enclosures is possible.

Sec. 5.35.116 Monitoring and Expulsion of Customers.

- A. No person shall operate a bathhouse unless employee monitors are provided for the exclusive and sole purpose of observation of activity on the bathhouse premises. Two monitors shall be provided for any floor or portion of a floor open to patrons, provided, however, that the bathhouse operator may, in the alternative, provide one monitor for each twenty patrons based on the average hourly patronage for the bathhouse during the preceding calendar month, calculated for the hours that the bathhouse is open, provided that at least one monitor shall be on duty at all times that the bathhouse is open. The average number of patrons during each hour shall be calculated from the daily register required by the provisions of Section 5.35.113. Such monitors shall survey the entire portion of the bathhouse open to patrons every fifteen minutes.

- B. The bathhouse operator shall immediately expel from the premises any and all persons observed causing the maximum occupancy requirements of this chapter to be violated, any and all persons committing any crime on the premises, or any and all persons engaged in high risk sexual activity on the premises. For the purposes of this chapter, "high risk sexual activity" shall mean:
1. the placing of the male penis on or into the anus, vagina or mouth of another person;
 2. The placing of the mouth of one person on the anus, vagina or penis of another person;
 3. The contact of feces or urine of one person with any part of the body of another person; or,
 4. The entry of any part of the body of one person into the anus or vagina of another person.

Sec. 5.35.117 Display of License.

Every person to whom or for whom a license shall have been granted pursuant to the provisions of this chapter shall display said permit in a conspicuous place in the bathhouse so that the same may be readily seen by persons entering the premises.

Sec. 5.35.118 Inspections.

The Director and the Health Officer shall from time to time, and at least once a month, make an inspection of each bathhouse for the purpose of determining that the provisions of this chapter are complied with.

Sec. 5.35.119 License Not Transferable.

No bathhouse license shall be transferred from person to person or from one location to another.

Sec. 5.35.120 Unlawful Activities-Public Nuisance.

It shall be unlawful for any person to give or administer any bath or baths as defined herein, or to give or administer any of the other things mentioned in this chapter, which violate the provisions of this chapter or the regulations adopted pursuant to this chapter or which violate any state or local laws or ordinances. Any violation of this provision shall be deemed grounds or revocation of the license granted hereunder.

Any bathhouse operated, conducted or maintained contrary to the provisions of Section 5.35.116 shall be and the same is hereby declared to be unlawful and a public nuisance; and the City Attorney may immediately commence action or proceedings for the abatement and removal and enjoinder thereof in any manner provided by law. The remedies provided for herein shall be cumulative, and not exclusive of any other remedies, civil or criminal, provided by law.

Sec. 5.35.124 Health and Sanitation Requirements and Regulations.

Every bathhouse shall be maintained and operated in a clean and sanitary manner. All bathhouses shall comply with all applicable building, health, zoning and fire laws of the City of Chula Vista. In addition, the Director and the Health Officer may, after a noticed public hearing, adopted and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this chapter. All bathhouse operators holding a valid shall be given written notice of the public hearing, including a copy of the proposed regulations, at least ten days prior to the date of the hearing. In addition, notice of the public hearing and a summary of the proposed regulations shall be published in an appropriate newspaper of general circulation one time at least ten days prior to the public hearing. The rules and regulations shall include reasonable requirements to protect the health and safety of bathhouse patrons, including reasonably necessary requirements for educational programs and other measures for the prevention and control of the spread of Acquired Immune Deficiency Syndrome (AIDS) and other infectious or communicable diseases.

Sec. 5.35.122 Violations.

Every person who violates any provision of this chapter is guilty of an infraction.

Sec. 5.35.123 Denial, Suspension or Revocation of License.

Any license issued pursuant to this chapter may be suspended or revoked by the Director on proof of violation by the permittee of any provisions of state law, this chapter, City ordinances or any rule or regulation adopted and approved pursuant to Section 5.35.121, or in any case where the Director, on the advice of the Health Officer, determines the bathhouse is being managed, conducted, or maintained without regard for the public health, or the health of patrons or customers, or without due regard to proper sanitation or hygiene. Where a license is denied or a license renewal is denied, or where a license is

suspended or revoked by the Director, such denial, suspension, or revocation may be appealed by the license applicant or licensee in accordance with the provisions of Sections 5.36.240 through 5.36.320. In the event such provisions are utilized, the Director of Public Safety is authorized to take the actions therein required or authorized of the City Manager.

SECTION II: That Section 5.36.030 of the Chula Vista Municipal Code is amended to read as follows:

Sec. 5.36.030 Definitions.

Whenever in this article the following words or phrase are used, they shall mean:

- A. "City" means the City of Chula Vista, a municipal corporation in the State of California;
- B. "Health Department" means the Department of Public Health Services of the County of San Diego when the city department is enforcing the terms of this ~~chapter~~ chapter;
- C. "License" means the business license to operate a massage establishment required by this Code;
- D. "Massage" means a method of procedures upon the external parts of the body including, but not limited to rubbing, stroking, kneading, tapping with the hand or any instrument, facial massage, fomentations, electric or magnetic treatment or alcohol rubs;
- E. "Massage establishment" means an establishment having a fixed place of business where any person engages in, conducts, carries on or permits to be engaged in, conducted or carried on any business ~~of~~ ~~the~~ ~~city~~ ~~of~~ ~~Chula~~ ~~Vista~~ ~~including~~ ~~but~~ ~~not~~ ~~limited~~ ~~to~~ ~~rubbing~~ ~~stroking~~ ~~kneading~~ ~~tapping~~ ~~with~~ ~~the~~ ~~hand~~ ~~or~~ ~~any~~ ~~instrument~~ ~~facial~~ ~~massage~~ ~~fomentations~~ ~~electric~~ ~~or~~ ~~magnetic~~ ~~treatment~~ ~~or~~ ~~alcohol~~ ~~rubs~~ where massages, as defined in this chapter or other similar procedures are given or administered;
- F. "Massage technician" or "technician" means any person, male or female, who gives or administers to another person, for any form of consideration, a "massage" or bath as those words are defined in this chapter;

abatement, removal and enjoinder thereof, in the manner provided by law; and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such massage establishments and restrain and enjoin any person from operating, conducting or maintaining a massage establishment contrary to the provisions of this chapter.

SECTION IV: Severability.

If any section, subsection, subdivision, paragraphs, sentence, clause or phrase of this ordinance or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity of effectiveness of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective.

SECTION V: This ordinance shall take effect and be in full force on the thirty-first day from and after its adoption.

Presented by and Approved as to form by

 3/5/88

D. Richard Rudolf, Assistant City Attorney

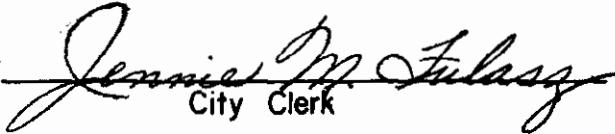
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FIRST READ AT A REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CHULA VISTA, CALIFORNIA, HELD March 8, 19 88, AND
FINALLY PASSED AND ADOPTED AT A REGULAR MEETING THEREOF HELD March 15,
19 88, BY THE FOLLOWING VOTE, TO-WIT:

AYES: Councilmen McCandliss, Nader, Malcolm, Cox, Moore
NAYES: Councilmen None
ABSTAIN: Councilmen None
ABSENT: Councilmen None



Mayor of the City of Chula Vista

ATTEST 
City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.
CITY OF CHULA VISTA)

I, JENNIE M. FULASZ, CMC, CITY CLERK of the City of Chula Vista, California,
DO HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of
ORDINANCE NO. 2256, and that the same has not been amended or repealed.

DATED _____



CITY OF
CHULA VISTA

City Clerk

Ordinance No. 2256

AN ORDINANCE OF THE CITY OF CHULA VISTA ADDING
CHAPTER 5.35 AND AMENDING SECTIONS 5.36.030
AND 5.36.330 OF THE CHULA VISTA MUNICIPAL CODE
RELATING TO BATHHOUSES

By a unanimous vote of the City Council on March 8,
1988, the City Council placed the ordinance on its second
reading and adoption.


Basically, this ordinance regulates the conditions
under which bathhouses could exist in the City of Chula Vista.

The ordinance is substantially identical to that
adopted by the County of San Diego and which the County
requested the incorporated cities in the County of San Diego
to adopt to enable them to more effectively enforce the
regulations which would inhibit the spread of Aids.

The ordinance makes technical changes to the existing
massage parlor ordinance to remove inadvertent references
to bathhouse-type conduct from those provisions. Violations
of this bathhouse ordinance and the massage establishment
ordinance will be independently capable of being enforced
by the Police Department.

Copies of the ordinance are available at the office of the
City Clerk, City Hall, 276 Fourth Avenue, Chula Vista, CA.

Dated: 3/9/88


Jennie M. Fulasz, CMC, City Clerk