

ARTICLE VIII. MASSAGE ESTABLISHMENTS

DIVISION 1. GENERALLY

Sec. 22-600. Title.

This article shall be known as the "Massage Establishment Licensing Law of the City of Citrus Heights."

Sec. 22-601. Authority.

This article is enacted pursuant to Chapter 6, Part 1 of Division 1 of Title 5 of the California Government Code (commencing with Section 51030).

Sec. 22-602. Purpose and intent.

The purpose of this article is to provide for the orderly regulation of the business of massage and massage therapists in the city, and to protect the public's health and safety by establishing certain licensing standards pertaining to massage therapy business activities within the City of Citrus Heights and to recognize massage therapy as a legitimate business occupation and health-related service.

Sec. 22-603. Construction of this article with other city codes.

To the extent that there is any conflict between the provisions of this article and the provisions of any other section(s) of this Code, the provisions of this article shall prevail.

Sec. 22-604. Definitions.

The definitions contained in this section shall govern the construction of this article. Words contained in this article but not defined by this section shall be construed according to the ordinary and common usage of the word, taking into consideration the context of the language and the definition of the word as provided in a standard English language dictionary:

Applicant means the owner of the massage establishment. The applicant may be a sole proprietor, partnership, firm, association, joint stock company, corporation, limited liability corporation, or other business entity to be responsible for the operation of the massage establishment.

Business license administrator means the City of Citrus Heights Business License Administrator or his/her designee.

California Massage Therapy Council or *CAMTC* means the nonprofit organization created pursuant to Business and Profession Code § 4600 et seq. to regulate and issue massage practitioner and therapist certificates.

CAMTC certificate or *certificate* means the certificate, or conditional certificate, issued by the California Massage Therapy Council to massage therapists and to massage practitioners that entitles the holder to practice massage. When used in this article, "CAMTC certification" or "CAMTC-certified" means a person who has a valid, unexpired CAMTC certificate.

CAMTC identification card means a valid and unexpired identification card issued by the California Massage Therapy Council containing a certificate holder's name, photograph, and certification number.

Certificate holder means a person who has a valid, unexpired certificate from, and who is in good standing with, the California Massage Therapy Council.

Chief of police means the Citrus Heights Police Department Chief of Police or his/her designee.

City means the City of Citrus Heights.

City clerk means the City Clerk of the City of Citrus Heights or his/her designee.

City council means the City Council of the City of Citrus Heights.

Compensation means a payment, loan, advance, donation, contribution, deposit, or gift of money, or anything of value.

Employee means a person who performs any massage service on the premises of a massage establishment on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise and whether or not the person is paid a salary, wage or other compensation by the massage establishment.

Home occupation massage therapist means a massage therapist who engages in the business of massage therapy in his/her home or residence, or who engages in massage therapy in both his/her home or residence and in a massage establishment.

Lease means an executed agreement between the applicant and the property owner and/or representative of the owner, authorizing the use of the premises for a massage establishment. The lessee and the applicant shall be the same person or entity.

Licensee means any person operating or maintaining a massage establishment pursuant to a massage establishment license.

Massage means any method of placing pressure on, or friction against, or manipulating, stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the human body below the neck with the hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances, or with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in the practice of massage.

Massage establishment means a fixed place of business where any person engages in or carries on massage in exchange for any form of compensation.

Massage establishment license or *license* means a license issued by the business license administrator and required pursuant to this article, to operate or maintain a massage establishment within the city, issued to the massage establishment's responsible person.

Massage therapist means any person who gives or administers a massage to another person, for any form of consideration whatsoever. Unless otherwise specified, "massage therapist" includes those persons with CAMTC certification and those individuals classified by his/her school of education as bodyworkers, bodywork therapists, massage practitioner, bodywork practitioner, or massage technicians.

Off-premises massage therapist means massage therapists who provide off-premises massage services and who are self-employed and/or who contract with or work for a business other than a massage establishment. Massage therapists who conduct massage as a home occupation are engaged in off-premises massage therapist businesses.

Owner means each of the following:

- (1) For a sole proprietorship, the sole owner of the business;
- (2) For a business association, each owner of more than ten percent of the business;
- (3) For a corporation, each stockholder of the corporation and each officer and director of the corporation;
- (4) For a limited liability company, each member of the company; and
- (5) For a partnership, each partner, including limited partners, and where a partner is a corporation, the provisions pertaining to a corporate applicant in division (3) apply.

Person means any individual, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

Public necessity means the demonstration that a business concept for a proposed new massage establishment is unique to Citrus Heights and set apart from other establishments (i.e. therapeutic massage establishment providing total body care services such as stretching, facials, aromatherapy, and other rejuvenating treatments)

Reflexology means a non-invasive complementary modality involving the use of alternating pressure applied to the reflexes within the reflex maps of the body located on the feet, hands, and outer ears.

Responsible person means the person who holds a valid and unrevoked CAMTC certificate and is designated by the sole proprietor, partnership, firm, association, joint stock company, corporation, limited liability corporation, or other business entity to be responsible for the operation of the massage establishment. A responsible person is considered to be any person who supervises, inspects, directs, organizes, manages or controls or is in any way responsible for, or in charge of, the business for which the license is required.

Specified anatomical areas means, less than completely and opaquely covered: Human genitals, public regions, buttocks, or female breasts below a point immediately above the top of the areola, and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Transfer of Ownership of a Massage Establishment means when one business owner sells an existing legally established massage business to another entity. Massage establishments which cease operation and the business owner no longer has a valid lease for the specific location, is not eligible to be considered for transfer of ownership. Transfer of Ownership requires new owners to obtain a new massage establishment license.

Sec. 22-605. Exemptions from article.

This article shall not apply to the following classes of persons and, except as provided in subsections (4), (5) and (7) below, a massage establishment license or CAMTC certificate shall not be required of such persons while engaged in the performance of the duties of their respective professions, but such persons must comply with the sanitation and decency requirements of this article:

- (1) Physicians, surgeons, nurses, chiropractors, osteopaths, acupuncturists, naturopathic doctors and physical therapists who are duly licensed to practice their respective professions in the state, and massage therapists working under the direct supervision of such duly licensed physicians, surgeons, chiropractors, osteopaths, acupuncturists, naturopathic doctors and physical therapists;
- (2) Trainers of any amateur, semiprofessional or professional athlete or athletic team;
- (3) Hospitals, nursing homes, or persons working in any such establishments;
- (4) Barbers or cosmetologists lawfully carrying out their particular occupation or business, and holding a valid, unrevoked license or certificate of registration issued by the State of California and where massage comprises not more than 25 percent of the square footage of the establishment; however, any massage therapist engaged in massage at such establishment shall be required to obtain a CAMTC certificate;
- (5) Athletic clubs or fitness facilities, where such facility is designed and equipped for indoor sports, exercise, or physical education and where massage comprises not more than ten percent of the square footage of the establishment shall not be required to obtain license pursuant to this article; however, any massage therapists engaged in massage at such establishment shall be required to obtain a CAMTC certificate;
- (6) A recognized school of massage which: (i) teaches the theory, ethics, practice, profession and work of massage; (ii) requires a residence course of study to be given before the student is furnished with a diploma or certificate of learning or completion; and (iii) has been approved pursuant to Education Code § 94915, or, if said school is not located in California, has complied with the standards commensurate with those specified in Education Code § 94915;
- (7) Reflexologists performing reflexology; however, any reflexologist engaged in massage shall be required to obtain a CAMTC certificate.

Sec. 22-606. Application of article to persons practicing massage under a license or permit issued by the city as of the effective date of this article; grandfather clause.

- (a) For purposes of this section, "massage therapist permit" or "permit" means a permit issued to a person by the city prior to the effective date of Ordinance No. 2016-010, and which authorized such person to practice massage therapy within the city.
- (b) For purposes of this section, "massage establishment license" or "license" means a license issued prior to the effective date of Ordinance No. 2016-010, which exempted the license holder from obtaining a massage therapist permit under the prior version of this article.
- (c) Any person holding a valid, unsuspended and unrevoked massage therapist permit or massage establishment license issued by the city pursuant to the prior version of this article for the purpose of practicing massage or operating a massage business, and who has held the permit or license continually for five or more years as of the effective date of Ordinance No. 2016-010, shall be exempt from the requirement to possess a CAMTC certificate to practice massage within the city, provided all of the following criteria are met:
 - (1) No substantiated complaints have been lodged with the city regarding the permit or license holder under this article;
 - (2) The permit or license was valid and in good standing as of the effective date of Ordinance No. 2016-010; and
 - (3) The holder of the permit or license continues to maintain a valid, unsuspended and unrevoked permit or license issued by the city, and continues to meet all conditions and qualifications specified in the prior version of this article, including, but not limited to, insurance requirements, continuing education from a CAMTC approved school, tuberculosis skin testing, and cardiopulmonary resuscitation. This exemption shall no longer apply if such permit or license is suspended, revoked, or not renewed.
- (d) The business license administrator shall process applications for renewal of massage therapist permits or massage establishment licenses during applicable exemption periods, and may deny the renewal of, suspend, or revoke such permits or licenses, pursuant to the prior version of this article.
- (e) Each massage establishment shall comply with all provisions of this article as if the license holder holds a CAMTC certificate, including, but not limited to, providing information about a license holder on its massage establishment license application, listing the employee on its register of employees, and posting an original copy of the employee's license in a conspicuous public place on the premises.
- (f) Except as expressly stated in this section, all terms and conditions of this article, including but not limited to, massage establishment license requirements, sanitation and decency provisions, and grounds for suspension, revocation, or denial, shall apply to all massage establishments and therapists in the jurisdiction, regardless of the date of issuance of the initial massage therapist permit or massage establishment license.
- (g) For purposes of this section, "prior version of this article" means this article, as it existed from December 10, 2009, to the effective date of Ordinance No. 2016-010 (noninclusive).

Secs. 22-607—22-608. Reserved

DIVISION 2. LICENSES AND CERTIFICATIONS

Sec. 22-609. Massage establishment—massage establishment license required.

Except as otherwise provided by this article, it is unlawful for any person to operate, engage in, carry on, or allow the operation of a massage establishment without having a valid and unexpired massage establishment license issued pursuant to this article. A person shall be deemed to operate or conduct a business and violate this

article if the person, without the required massage establishment license in effect, supervises, inspects, directs, organizes, manages or controls or is in any way responsible for, or in charge of, the business for which the license is required.

Sec. 22-610. Massage establishment license cap.

- (a) The number of massage establishments allowed in the City shall not exceed one (1) massage establishment per every 3,400 inhabitants of the City and rounded to the nearest whole number. For purposes of this Section, the total number of inhabitants of the City shall be determined by the most current published data available from the California State Department of Finance, as of the date an application for a massage establishment license is filed. The total number of massage establishments in existence shall be determined by the most current licensing data available to the City.
- (b) The license cap shall not apply to massage establishment licenses issued for massage as an accessory use or licenses issued as a home occupation.
- (c) Massage establishments legally in existence on the effective date of this ordinance may continue to operate, including through transfer of ownership, regardless of license cap, provided the massage establishment maintains a valid, unexpired and unrevoked massage establishment license.
- (d) The City Council shall have the authority to authorize the granting of a massage establishment license that would exceed the licensing cap if the applicant demonstrates the location will serve as a public necessity.

Sec. 22-610.5 Applicability of license cap due to relocation.

The business license administrator may grant a massage establishment license to an existing massage establishment in good standing with must relocation due to situations out of the control of the massage establishment owner (i.e. building destruction, termination of lease, etc.).

Sec. 22-611. Term of massage establishment license.

A massage establishment license issued pursuant to this article shall be valid for a period of one year from the date of its issuance and shall then automatically expire unless renewed pursuant to the terms of this article.

Sec. 22-612. Non CAMTC Applicants must identify Responsible Person.

Applicants for a massage establishment license who are non-CAMTC certified shall identify a responsible person(s) who holds a valid and unrevoked CAMTC certificate on the application. The responsible person(s) must be on premises during all hours of operation. The responsible person shall understand and comply with all regulations pertaining to this article.

Sec. 22-613. Massage establishment license application; application filing.

Applications for a massage establishment license to operate a massage establishment shall be filed on a form by the applicant and shall contain such information as required by the business license administrator, including but not limited to, all of the following information:

- (a) The name, address, and telephone number of the massage establishment.
- (b) The name, residence address and telephone number, and business address and telephone number of each owner of the massage establishment.
- (c) The name, residence address and telephone number for each person identified as the responsible person for the massage establishment.
- (d) The form of business under which the applicant will be conducting the massage establishment, i.e., sole proprietorship, corporation, general or limited partnership, limited liability company, or other form. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of

incorporation, together with the names and residence addresses of each of its officers, directors, and each shareholder holding more than ten percent of the stock of the corporation. If the applicant is a general or limited partnership, the application shall set forth the name and residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply. If the applicant is a limited liability company, the application shall set forth the name and residence address of each of the members. If one or more of the members is a partnership, limited liability company, or corporation, the provisions of this section pertaining to a partnership, limited liability company, or corporate applicant shall apply, as applicable.

- (e) The name, address, and telephone number of the owner of the real property upon, in, or from which the certified massage establishment is to be operated. In the event the applicant is not the legal owner of the property, the application shall be accompanied by a copy of any written lease between the applicant and the property owner authorizing use of the premises for a massage establishment, or, alternatively, if there is no written lease, then a written, notarized acknowledgment from the property owner that the property owner has been advised that a massage establishment will be operated by the applicant upon, in, or from the property owner's property.
- (f) A description of the proposed massage establishment, including the type of treatments to be administered.
- (g) A list stating the number of massage therapists the applicant intends to employ at the establishment, the full name, date of birth, current address, and telephone number of each person who will perform massage at the establishment, the identification number and expiration date of each therapist's CAMTC certificate, and how many massage therapists the applicant intends to be working on-site performing massages simultaneously.
- (h) For each owner of the massage establishment who is a CAMTC-certified massage professional, a copy of his or her current certification from the CAMTC as a certified massage practitioner or as a certified massage therapist and a copy of his or her current CAMTC-issued identification card.
- (i) For each owner of the massage establishment who is not a CAMTC-certified massage professional, shall file an application for a background check, including the following:
 - (1) The individual's legal name, height, weight, color of eyes, and hair;
 - (2) A copy of a valid and current driver's license and/or identification issued by a state or federal government agency or other photographic identification bearing a bona fide seal by a foreign government showing, to the satisfaction of the city, that the individual is at least 18 years of age;
 - (3) The individual's business, occupation or employment history for the five years immediately preceding the date of the application;
 - (4) The name and address of any massage establishment or similar business owned or operated by the person whether inside or outside the city or state;
 - (5) The massage or similar business license history of the individual, including whether such person, in previously operating in this city or another city, county or state under a license or permit, has had such license or permit revoked or suspended, and the reasons and dates for any such revocation or suspension;
 - (6) All criminal convictions, except minor traffic violations;
 - (7) Two identical passport photos; and
 - (8) The individual shall be fingerprinted, and such fingerprints shall be submitted to the department of justice for a criminal background check.
- (j) A floor plan showing the layout of the massage establishment, to the specifications required by the community development department.

- (k) Whether any license or permit has ever been issued to the applicant by any jurisdiction under the provisions of any ordinance or statute governing massage or somatic practice, and as to any such license or permit, the name and address of the issuing authority, the effective dates of such license or permit, whether such license or permit was ever suspended, revoked, withdrawn, or denied; and copies of any documentary materials relating to such suspension, revocation, withdrawal, or denial.
- (l) Information demonstrating that the location of the proposed establishment is approved for occupancy as required by the applicable building and fire codes as described in Sec. 22-683.
- (m) Such other information as may be required by the permit authority to determine compliance with any other eligibility requirements for issuance of the license as specified by federal, state, or local law.
- (n) A statement that within the last five years the applicant has not failed to comply with a final court order or administrative action of an investigatory agency finding a violation of applicable federal, state and local wage and hour laws, including, but not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and any local minimum wage ordinance or prevailing wage requirements. For purposes of this subsection, a final court order or administrative action is one as to which there is no pending appeal and the time for filing an appeal has passed.

Sec. 22-614. Massage therapists—CAMTC certification required.

Except as otherwise provided in this article, it is unlawful for any person to perform massage without having a valid and unexpired CAMTC certificate.

Sec. 22-615. Massage establishment license fees; duplicate licenses.

- (a) The business license administrator shall impose nonrefundable fees to recover the administrative costs of processing applications; issuing and renewing massage establishment licenses; and administering this chapter. Such fees shall be established by resolution of the city council, amended from time to time. To the extent the city council determines practical, such fees may vary depending on the type of license for the sole purpose of apportioning relative regulatory costs to parties regulated.
- (b) The business license administrator shall impose nonrefundable fees to recover the costs of issuing duplicate copies of massage establishment business licenses. Such fees shall be established by resolution of the city council, amended from time to time.

Sec. 22-616. Background investigation.

Under this article, the chief of police shall investigate the background of each owner, as deemed appropriate. The owner shall pay fees for fingerprinting or investigation required by the city for such services. If an owner is a CAMTC certificate holder, the chief of police shall waive the background investigation for that owner. The chief of police shall evaluate each application to evaluate whether an owner's involvement in the operation of the business involves an unreasonable risk to the health, safety or general welfare of the public.

Sec. 22-617. Issuance of licenses; transferability.

- (a) The business license department shall issue the massage establishment license if the applicant meets the requirements of this chapter and no grounds for denial exist under Section xxxx.
- (b) A massage establishment license shall not be transferable or assignable from one person to another, or from one location to another.
- (c) No massage establishment license shall be issued for a change in ownership if the massage establishment, or another massage establishment operating at the same location, is under investigation by a law enforcement agency. Upon completion of the law enforcement agency's investigation, the business license administrator shall process the application for change in ownership in accordance with this article.

Sec. 22-618. Conditions on massage establishment license; procedure for imposition of conditions.

- (a) The business license administrator may issue a massage establishment license upon such conditions relating to the method or manner of operation of the business as he/she deems necessary to adequately protect members of the public in their patronage or dealings with the business or to reduce the incidence, detect the commission, or identify perpetrators of crime. Such conditions may be imposed at the time an establishment license is initially issued, upon renewal of the license, or at any time during the term of the license.
- (b) Written notice of conditions imposed on the establishment license and the reasons for the conditions shall be provided to the applicant or license holder.
- (c) Conditions imposed at the issuance of the establishment license become effective immediately following the date of service of the notice thereof. The applicant is entitled to appeal the conditions within the time and manner prescribed; however, the massage establishment license shall not be effective until the appeal is finally determined.
- (d) Conditions imposed at the time of renewal or during the term of the massage establishment license become effective 15 days following the date of service of the notice thereof; however, if an appeal is filed within the time and manner prescribed, the conditions shall not become effective until the appeal is finally determined.

Sec. 22-619. Grounds for denial of massage establishment license.

- (a) The business license administrator shall deny an initial application for a massage establishment license or an application for renewal of a massage establishment license if the business license administrator finds in writing:
 - (1) That the applicant, massage establishment licensee, responsible person and/or owners of the massage business, have engaged in unlawful activity, or been convicted of any of the following offenses or convicted of an offense outside the state that would have constituted any of the following offenses if committed within the state:
 - a. Penal Code §§ 266i, 315, 316, 318 or 647(b) of the state or that the massage personnel or the owners of a massage establishment are required to register under Penal Code § 290;
 - b. Any felony offense involving the sale of a controlled substance specified in the Health and Safety Code §§ 11054, 11055, 11056, 11057 or 11058;
 - c. Any crime or unlawful activity, on the basis of which the chief of police reasonably concludes that by reason of the nature of the crime or activity, the applicant's operation of a massage establishment would pose a risk of harm to the public;
 - (2) That the applicant/responsible person, owners and/or employees of the massage business have engaged in unprofessional conduct, including but not limited to, personal conduct or operation of a business resulting in denial of a license, revocation, suspension, restriction, or any other disciplinary action taken against an applicant, licensee, responsible person, owner and/or employee by the city, by another state, by any other governmental agency, or by CAMTC;
 - 3) Within the last five years, the applicant has failed to comply with a final court order or administrative action of an investigatory agency finding a violation of applicable federal, state and local wage and hour laws, including, but not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and any local minimum wage ordinance or prevailing wage requirements. For purposes of this subsection, a final court order or administrative action is one as to which there is no pending appeal and the time for filing an appeal has passed.

- (4) That the massage establishment is not operated in a manner, or housed within a building, which complies with all city, state, federal or otherwise applicable, codes, rules, regulations or laws, or CAMTC rules or regulations;
- (5) That the applicant failed to provide information in connection with the application requested by the city, preventing the chief of police from making his or her determination as to suitability to conduct work at the business;
- (6) That the applicant does not meet the qualifications necessary for issuance of a massage establishment license as required by this Code;
- (7) That statements made in the application or any information submitted supplementary to the application are incorrect or untrue;
- (8) That the responsible person is under the age of 18 years of age;
- (9) That, based on specific facts identified by the chief of police, the chief of police reasonably concludes that the operation of the proposed massage establishment would pose a risk to the public, that the applicant would not conduct the business in a law abiding or professional manner, and/or that the operation of the proposed business would subject patrons of the business to a risk of harm or criminal, deceitful or otherwise unethical practices;
- (10) That another massage establishment is or was operating at that same location and any of the following are true:
 - a. The other business's massage establishment license is suspended or was revoked or denied renewal for cause within the previous five years;
 - b. The other business's owner had a massage establishment license suspended, revoked, or denied for cause within the previous five years;
 - c. The business license administrator has served a notice of suspension, revocation, or denial of renewal regarding the other business's massage establishment license within the previous 15 days; or
 - d. An appeal from a notice of suspension, revocation, or denial of renewal is pending;
- (b) In addition to the above grounds for denial of a massage establishment license, the business license administrator shall also deny an application for renewal of a massage establishment license if he/she determines that:
 - (1) One or more conditions applicable to the previous license have been violated;
 - (2) The business and/or its employees do not comply with city, state, federal or otherwise applicable, codes, rules, regulations or laws, including CAMTC rules or regulations.

Sec. 22-620. Method of denial of massage establishment license.

- (a) The business license administrator's denial of an initial application or application for renewal of a massage establishment license shall be in writing, with the reasons stated therefor. Written notice of the denial, together and a copy of this division, or any applicable code provisions applicable to the license, shall be sent to the applicant.
- (b) Denial of an initial application or application for renewal of a massage establishment license shall prohibit operation of the business at any location within the city.
- (c) With respect to denial of an application for renewal of a massage establishment license the immediately preceding license shall be deemed to be in full force and effect for a period of 15 days following the date of service upon the applicant of the notice of denial. If the licensee files an appeal within the time and manner

prescribed, the immediately preceding massage establishment license shall continue in full force and effect until the appeal is finally determined.

Sec. 22-621. Updated therapist list; proof of certification.

- (a) Prior to any new employee performing massage at a massage establishment, a massage establishment shall provide the business license administrator with an updated list stating the number of massage therapists employed at the establishment, the full name, date of birth, current address, and telephone number of each person who performs or will perform massage at the establishment, the identification number and expiration date of each therapist's CAMTC certificate, and how many massage therapists the applicant intends to be working on-site performing massages simultaneously.
- (b) Every massage therapist shall, prior to performing massage at any massage establishment in the city, appear in person before the business license administrator and present a copy of his or her CAMTC certificate and CAMTC identification card. The business license administrator shall verify that the massage therapist appears on the list of employees provided by a massage establishment; verify the massage therapist's identity; and photocopy the therapist's CAMTC certificate and CAMTC identification card.
- (c) A massage establishment shall notify the business license administrator in writing of the name and CAMTC identification number of each massage provider who is no longer an employee of the massage establishment within five days of that person no longer being employed at the business.

Secs. 22-622—22-629. Reserved.

DIVISION 3. RENEWAL OF MASSAGE ESTABLISHMENT LICENSES

Sec. 22-630. Massage establishment license renewal.

- (a) At least 60 days prior to expiration of a massage establishment license, the business license administrator shall mail the licensee an application for renewal. The application for renewal shall be on a form provided by the business license administrator, and shall include the following:
 - (1) A current list stating all massage therapists employed by the massage establishment as of the renewal date, including each individual's full name, date of birth, current address, and telephone number, the identification number and expiration date of each therapist's CAMTC certificate, and how many massage therapists perform massages simultaneously;
 - (2) A copy of each massage therapist's unexpired CAMTC certificate; and
 - (3) A description of any and all improvements which the applicant has made upon the premises since the last massage establishment license was issued.
- (b) The licensee shall file the application for renewal, and any required fees, with the business license administrator prior to the expiration of the immediately preceding license.
- (c) The business license administrator shall investigate and process an application for renewal of a massage establishment license in the same manner as an initial application for a massage establishment license. Within 60 days of receiving a complete application, the business license administrator shall issue the massage establishment license unless grounds for denial identified in this article exist.
- (d) With respect to any application for renewal which is filed on or before the date of expiration of the immediately preceding license, the business license administrator shall extend the term of the immediately preceding license, without charge, during the period of any investigation required in order to determine whether the license should be renewed.

Sec. 22-631. Added application fee for late renewals.

An application for a renewal of a massage establishment license will be deemed received late and subject to a penalty of 50 percent of the application fee if the complete application, including all fees, is not received by the business license administrator within 60 days of the date of expiration of the immediately preceding license. If a licensee continues to operate without a valid license, the licensee may be subject to all other penalties authorized by the City Code, up to and including denial or revocation of a massage establishment license.

Secs. 22-632—22-639. Reserved.

DIVISION 4. REVOCATION OR SUSPENSION OF MASSAGE ESTABLISHMENT LICENSE

Sec. 22-640. Grounds for revocation or suspension.

A massage establishment license may be suspended for not longer than one year or revoked during its term if the business license administrator finds in writing:

- (1) That pursuant to section 22-619, grounds for denial of an initial application for a massage establishment license exist, including but not limited to, untrue statements made in the application or conviction of a crime that would inhibit the person's ability to conduct the business in a law abiding manner; or
- (2) The business has operated in a manner, or is housed on premises or within a building which violates or is in violation of any city, state, federal, or otherwise applicable codes, rules, regulations or laws, or CAMTC rules or regulations, including, but not limited to, violations by the responsible person or employees; or
- (3) The licensee has violated one or more conditions imposed upon the license.
- (4) If the applicant has failed to comply with a final court order or administrative action of an investigatory agency finding a violation of applicable federal, state and local wage and hour laws, including, but not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and any local minimum wage ordinance or prevailing wage requirements. For purposes of this subsection, a final court order or administrative action is one as to which there is no pending appeal and the time for filing an appeal has passed.

Sec. 22-641. Method of revocation or suspension.

- (a) The business license administrator may revoke a massage establishment license by issuing written notice of the suspension or revocation, stating the reasons therefor, and serving the notice and a copy of this article or any otherwise applicable code sections, upon the holder of the license.
- (b) The revocation or suspension shall become effective 15 days following the date of service upon the licensee of the notice of revocation or suspension. If the licensee files an appeal within the time and manner prescribed, the license shall remain in effect until the appeal is finally determined.
- (c) A massage establishment license may be temporarily suspended pending disposition of an appeal, if any, if the business license administrator finds that such temporary suspension is necessary in order to protect against a serious and immediate threat to the health, safety or welfare of the public caused by exercise of the license. If the business license administrator orders a temporary suspension, the notice of suspension shall be delivered to each place of business licensed, served upon the licensee, and shall contain the following:
 - (1) The finding justifying the temporary suspension;

- (2) The time, date, and place at which the licensee may appear in advance of the commencement of the temporary suspension for the purpose of showing cause to the hearing officer as to why the suspension is not necessary; and
- (3) The time and date on which the temporary suspension commences, which shall not be earlier than 24 hours following the time and date of delivery of the notice.

Sec. 22-642. Appeals.

- (a) The holder of a massage establishment license or applicant for a massage establishment license may appeal from the following:
 - (1) The denial of an initial application or renewal of a massage establishment license;
 - (2) The imposition of conditions on an initial massage establishment license at the time of issuance;
 - (3) The imposition of conditions on a massage establishment license at the time of renewal of the license or during the term of the license;
 - (4) The suspension or revocation of a massage establishment license; or
 - (5) The determination that the licensing requirements of this division apply to any person or business.
- (b) An appeal pursuant to this section shall be in writing, shall state the specific reasons for the appeal and the grounds asserted for relief, and be accompanied by a non-refundable appeals processing fee set by city council resolution. The appeal shall be filed with the business license administrator no later than 15 days after the date of service of the notice providing the grounds for appeal. The failure to file an appeal within the time or in the manner prescribed in this section, or to include the appeals processing fee, waives the right to appeal.

Sec. 22-643. Appeal hearing.

- (a) No later than 30 days following the filing of a timely appeal, a hearing shall be held to determine whether the appeal shall be granted. The city shall provide the appellant written notice of the time, date, and place of the hearing no later than ten days before the hearing date.
- (b) The business license administrator shall have the burden of proof during the hearing, and prove that by a preponderance of the evidence that grounds for the business license administrator's action exist. The provisions of the California Administrative Procedure Act, Government Code § 11500 et seq., and formal rules of evidence do not apply at the hearing. At the conclusion of the hearing, the hearing officer shall prepare a written decision which either grants or denies the appeal and contains findings of fact and conclusions. The written decision shall be filed with the business license administrator no later than ten days following the date on which the hearing is closed. The business license administrator shall, within five days of the filing of such decision, serve the applicant or licensee with notice and copy of the written decision.
- (c) With regard to an appeal from the imposition of conditions during the term of a massage establishment license, or on an application for renewal of a massage establishment business license, the business license administrator must demonstrate by substantial evidence the necessity of the conditions. If the imposition of such conditions is upheld, the hearing officer shall specifically provide findings regarding the evidence within the record supporting the determination.

Sec. 22-644. Finality of determination.

- (a) With respect to appeals from the denial of an initial application for a massage establishment license, or the imposition of conditions on an initial application for a massage establishment license, the hearing officer's decision is final upon service of the hearing officer's decision upon the appellant.

- (b) With respect to an appeal from the denial of a renewal of a massage establishment license, from the imposition of conditions on a massage establishment license at the time of renewal or during the term of the business license, or from the revocation of a massage establishment license, the hearing officer's decision is final 15 days after service of the hearing officer's decision on the appellant, unless city council review is requested either by the business license administrator or appellant.

Sec. 22-645. Request for review by city council.

- (a) To request city council review of the hearing officer's decision, the applicant for a license, licensee, or business license administrator shall file a written request with the city clerk within 15 days following the date of service of the hearing officer's decision. The request for review shall state in detail the reasons for review, the error alleged in the hearing officer's decision, and include a copy of the hearing officer's decision attached to the request for review, and an appeals processing fee as set by city council resolution.
- (b) Upon receipt of a request for review by city council, the city clerk shall schedule city council review not later than 30 calendar days following the date of filing of the notice of appeal. The city clerk shall provide notice of the time and date of the hearing to the appellant at least ten days in advance. The city council shall be authorized to deny the introduction of evidence and decide the matter after oral argument presented during the hearing, to admit supplementary evidence with respect to challenges or particular findings, or reject the findings and conclusions and conduct a de novo hearing. The determination by the city council granting or denying the appeal shall be final and shall be accompanied by findings of fact and conclusions, which may consist of an adoption by reference of those by the hearing officer.
- (c) The city council is authorized to order the issuance or renewal of the massage establishment license, the revocation of the massage establishment license, suspension of the massage establishment license, or order the massage establishment license to remain in effect upon such terms and conditions as the city council deems necessary and appropriate.

Sec. 22-646. Effect of revocation or denial of an application for renewal.

- (a) The revocation of a massage establishment license or denial of renewal of a massage establishment license for cause shall terminate the right of the licensee to engage in the business authorized by the license anywhere within the city for a period of five years following the effective date of revocation or denial. At the conclusion of such period, the former holder may file a written application for issuance of a new license with the business license administrator. The business license administrator may grant or deny the application pursuant to such terms and conditions necessary to ensure compliance with the law, including conditions relating to the rehabilitation of the applicant.
- (b) Reserved.
- (c) Reserved.
- (d) Any location in which a massage establishment license is revoked, or denied renewal for cause, shall be prohibited obtaining a massage establishment license in the same location for a period of five years.
- (e)
- (f) For purposes of this article, denial of renewal of a massage establishment license "for cause" means denial of renewal pursuant to subsections (a)(1)—(3) or (b) of section 22-619.

Sec. 22-647. Operation with revoked, suspended, or non-renewed license.

It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, the application of massage or the operation of a massage establishment if such person's license has been revoked, suspended, or denied renewal.

Secs. 22-648, 22-649. Reserved.

DIVISION 5. OFF-PREMISES MASSAGE THERAPISTS

Sec. 22-650. Requirements for home occupation massage therapists.

- (a) It shall be unlawful to conduct massage therapy as a home occupation massage therapist without obtaining a valid and unrevoked CAMTC certificate and a home occupation business license pursuant to this Code. A home occupation massage therapist who lives within the city and operates out of his/her home must comply with the city's zoning and business license procedures.
- (b) Home occupation massage therapists shall comply with all of the provisions of this article, except that a home occupation massage therapist need not comply with the facilities requirements of section 22-683.
- (c) The location at which the home occupation massage therapist conducts his/her massage therapy business shall be subject to inspections pursuant to section 22-688.

Sec. 22-651. Requirements for off-premises massage therapists.

- (a) It shall be unlawful to conduct massage therapy as an off-premises massage therapist without obtaining a valid and unrevoked CAMTC certificate.
- (b) An off-premises massage therapist shall comply with all of the provisions of this article except that an off-premises massage therapist need not comply with the facilities requirements of section 22-663.
- (c) Whenever an off-premises massage therapist conducts his/her massage business at any business or commercial establishment that is open to the public, that portion of the business or commercial establishment at which the off-premises massage therapist conducts his/her massage therapy business shall be subject to inspections pursuant to section 22-668. Whenever the off-premises massage therapist conducts his/her massage business at any place other than a business or commercial establishment that is open to the public, the city's agents may enter and inspect the premises or property to the extent authorized by law.

Sec. 22-652. Exemption for businesses at which off-premises massage therapy business is conducted.

- (a) The owner and/or operator of a business at which off-premises massage therapy is conducted is not required to obtain a massage establishment license pursuant to this article, as long as the primary purpose of the business is not massage therapy. The business shall not be required to remain closed during the particular hours provided in this article; however, massage therapy shall only occur during the regular business hours of that business.
- (b) The [business license administrator](#), with input from any other department of the city, or any other appropriate agency or entity, shall be vested with discretion in determining the primary purpose of the business. If [the business license administrator](#) determines a business is operating as a massage establishment, notice of such determination and notice of the requirement to obtain a massage establishment license shall be sent to the business.

Sec. 22-653. Special and charitable events within the city.

- (a) Massage therapists holding a valid and unexpired CAMTC certificate may volunteer their massage services at special events, charitable events, or non-profit events that have obtained required permits from the city. The holders of CAMTC certificates may volunteer at these events without having to obtain any additional permits from the city.

- (b) Each massage therapist shall wear his/her CAMTC identification card on his/her outermost garment when working as a massage therapist at a special or charitable event in the city.

Secs. 22-654—22-679. Reserved.

DIVISION 6. OPERATION OF BUSINESS AND CONDITIONS OF FACILITIES

Sec. 22-680. Compliance with article.

It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, the application of massage or the operation of a massage establishment in violation of the terms of this article, or in violation of any of the terms and conditions of any license issued pursuant to this article.

Sec. 22-681. Closed hours.

It is unlawful for a massage establishment to be open and carry on massage operations between the hours of 9:00 p.m. and 8:00 a.m. of the following day. All customers, patrons and visitors must be excluded from the massage establishment premises during those hours.

Sec. 22-682. Alcoholic beverages.

It is unlawful for any person to sell, give, dispense, provide or keep, or cause to be sold, given, dispensed, provided or kept, any alcoholic beverage, as defined in the Business and Professions Code § 23004, on the premises of any massage establishment or in conjunction with any massage business.

Sec. 22-683. Massage establishment facilities.

Except as otherwise provided by this article a massage establishment license shall not be issued until an inspection by the city reveals that the establishment complies with each of the following minimum requirements:

- (1) The premises and restrooms comply with the current California Building Standards Code, beginning with Title 17 of the California Code of Regulations. All plumbing and electrical installations in the massage establishment must have been installed under permit and inspection by the building department, and installed in accordance with the California Building Standards Code.
- (2) In any massage establishment which employs more than two massage therapists performing on-site massages simultaneously, separate restroom facilities shall be provided for each gender in convenient locations. All restroom facilities shall be equipped with self-closing doors opening in the direction of ingress to such facilities.

Upon a showing of good cause, the community development director may exempt a massage establishment from the requirement to maintain separate restroom facilities.

- ~~(3) No massage establishment located in a building or structure with exterior windows and/or doors facing a public street, highway, walkway, or parking area shall block visibility into the interior reception area through the use of curtains, screens, closed blinds, tints or any other material that obstructs, blurs or unreasonably darkens the view into the premises.~~
- ~~(4) No exterior door which is regularly used by the public for ingress or egress shall be locked during business hours, unless the massage establishment is owned by only one (1) individual with one (1) or no employees or independent contractors, provided that any such exterior door is equipped with panic hardware or other similar equipment that would provide an accessible form of egress in the event of an emergency.~~

Sec. 22-684. Sanitation and decency.

- (a) Every portion of a massage establishment, including appliances and apparatus, shall be kept clean and be operated in a sanitary condition.
- (b) All massage establishments shall provide clean laundered sheets and towels in sufficient quantity which shall be laundered after each use, and stored in a sanitary manner. Receptacles shall be provided for the storage of soiled linens and paper towels.
- (c) Wet and dry heat rooms, shower compartments, and toilet rooms shall be thoroughly cleaned each business day. Bathtubs shall be thoroughly cleaned after each use.
- (d) Massages may not be carried on within any separate cubicle, room, booth or area within a massage establishment, which is fitted with a ~~temporary or permanently-affixed lock of any kind. door capable of being locked. Additionally, except when there is no staff available to assure security for massage therapy patrons and staff who are behind closed doors, all reception and hallway doors must remain unlocked during business hours.~~
- (e) All massage therapists shall wear garments which cover the entire body, exclusive of the head, neck, arms, legs, hands and feet. The massage therapist must be fully covered from a point not more than four inches above the center of the kneecap to the base of the neck, excluding the arms. Such garments shall not be transparent and must be maintained in a clean and sanitary condition.

Sec. 22-685. Prohibited conduct.

- (a) It is unlawful for any massage therapist, to directly or indirectly, offer, administer, touch, or perform massage to a customer's specified anatomical areas.
- (b) A patron's specified anatomical areas must be fully draped at all times while any employee of the massage establishment, massage therapist or person is in the massage therapy cubicle or room.
- (c) It is unlawful for any massage therapist to perform massage without first draping the client. If at any time the draping falls off or is removed, the massage must stop until the client is redraped.

Sec. 22-686. Register and list of services.

- (a) The licensee of a massage establishment shall maintain a current register of all persons employed as massage therapists by the massage establishment, on a form provided by the city. The register shall include the full name, date of birth, current address, phone number, CAMTC certificate number, and the CAMTC certificate expiration date of each employee. This register shall be available for inspection to city personnel at all times during regular business hours.
- (b) A list of the services available and the price of such services shall be posted in an open and conspicuous public place on the premises. The services shall be described in readily understandable language. No massage establishment owner, operator, manager or person in charge of, or in control of, the massage establishment shall permit, and no massage therapist shall offer to perform, any services other than those posted.
- (c) For each massage service provided, every massage business shall keep a complete and legible written record of the following information: the date and hour that service was provided; the service received; the name or initials of the employee entering the information; and the name of the massage practitioner administering the service. Such records shall be open to inspection and copying by police officers, or other city officials charged with enforcement of this chapter. These records may not be used by any massage practitioner or operator for any purpose other than as records of service provided and may not be provided to other parties by the massage practitioner or operator unless otherwise required by law. Such records shall be retained on

the premises of the massage business for a period of one year, and be immediately available for inspection during business hours.

Sec. 22-687. Recording of activities prohibited.

No part of a Massage Establishment where massage, massage services, or massage therapy are being conducted shall be equipped with any electronic, mechanical or artificial device capable of being used for recording or videotaping, for monitoring the activities, conversation, or other sounds in the treatment room or room used by customers, except in the designated reception areas.

Sec. 22-688. Inspections.

Representatives of the city, including but not limited to members of the police department and any fire protection district of jurisdiction, may, at any time, with or without prior notice, inspect the subject premises and investigate the manner of the operation of the massage establishment to insure that it is operating in compliance with this article.

Sec. 22-689. Massage establishment license and CAMTC certificate posting requirements; identification cards.

- (a) The original massage establishment license and original CAMTC certificate for each massage therapist working at the establishment shall be displayed in a conspicuous public place on the premises. It shall be unlawful to display photocopies of licenses or certificates. The massage establishment licensee shall be responsible for ensuring each massage therapist's certificate is displayed in a conspicuous place on the premises.
- (b) Each massage therapist must wear his or her CAMTC identification card on his/her outermost garment when working in a massage establishment or at a business for the purpose of performing massage.

Sec. 22-690. Change of business name or location.

Except as otherwise provided by this article, no person granted a license pursuant to this article shall operate under any name or conduct his, her or its business at any location not specified in his/her or its license. If the business name, facilities and/or location is changed, a new license shall be obtained.

Sec. 22-691. Schools of massage.

Sec. 22-692. Prohibited advertising practices.

- (a) It is a violation of this article for any person who does not possess a valid and unexpired CAMTC certificate, and for any massage establishment that employs or retains such a person, to:
 - (1) State or advertise or put out any sign, 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
 - (2) Hold oneself out or use the title of "certified massage therapist" or "certified massage practitioner" or any other term, such as "licensed," "registered," or "CMT," that implies or suggests that the person is the holder of a certificate issued by CAMTC.
- (b) No massage business shall place, publish or distribute, or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective clients that any service is available other than those services listed as an available service pursuant to section 22-686, nor shall any massage business employ language in the text of such advertising that would

reasonably suggest to a prospective client that any service is available other than those services as described in compliance with the provisions of this chapter.

Sec. 22-693. Employment of minors prohibited.

- (a) No massage establishment shall employ any person under 18 years of age as a massage therapist or in any other capacity.
- (b) This section shall not prohibit a business, where massage is not the primary purpose of the business, from employing individuals under 18 years of age. However, massage therapists must still be at least 18 years of age.

Sec. 22-694. Massage therapy services rendered to minors prohibited.

No massage therapist shall perform, cause to be performed, or allow to be performed, any massage on any person under the age of 18, except at the special instance, request, and with the express written consent of a parent, guardian, or other person in lawful custody of the minor upon whose behalf the massage service is requested.

Secs. 22-695—22-699. Reserved.

DIVISION 7. ENFORCEMENT

Sec. 22-700. Separate offense for each day.

Any person who violates any provision of this article shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof and, shall be punished accordingly.

Sec. 22-701. Public nuisance.

Any use or condition caused or permitted to exist in violation of any of the provisions of this article shall be and is hereby declared a public nuisance and may be abated by the city pursuant to the city's neighborhood enhancement code, chapter 50 of this Code.

Sec. 22-702. Criminal penalties.

Violations of this article are hereby declared to be infractions except that notwithstanding any other provision of this article or state law, any such violation may, in the discretion of the prosecuting attorney, be charged and prosecuted as a misdemeanor. A conviction of an infraction shall be punishable by fine as follows: Upon a first conviction, a fine not exceeding \$100.00; upon the second conviction within one year of a prior conviction, by a fine not exceeding \$200.00; upon any subsequent conviction within one year of two prior convictions, by a fine of not exceeding \$500.00. Any person convicted of a misdemeanor shall be punishable by a fine of not more than \$1,000.00 or by imprisonment not to exceed six months, or both.

Sec. 22-703. Civil injunction.

The violation of any provision of this article shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of city, create a cause for injunctive relief.