



---

DEPARTMENT OF PLANNING AND  
COMMUNITY DEVELOPMENT

---

**ACTION DATE:** November 17, 2011

**TO:** Planning Commission

**APPLICANT:** City of Agoura Hills  
30001 Ladyface Court  
Agoura Hills, CA 91301

**CASE NO.:** 11-ZOA-006

**LOCATION:** Citywide

**REQUEST:** Request for the Planning Commission to approve a Resolution recommending that the City Council adopt the Massage Establishments and Practitioners Ordinance by adding Division 12 of Part 2 of Chapter 6 of Article IX; amending paragraph (g) and adding paragraph (h) of Section 6301 of Chapter 3 of Article IV; amending Section 9120.1.A (G) of Part 3 of Chapter 1 of Article IX; and amending Sections 9312.2 and 9312.3 of Part 2 of Chapter 3 of Article IX of the Agoura Hills Municipal Code. The Ordinance establishes comprehensive regulations for massage establishments and practitioners in the City.

**ENVIRONMENTAL DETERMINATION:** Exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3) of the State CEQA Guidelines.

**RECOMMENDATION:** Staff recommends that the Planning Commission adopts a Resolution recommending that the City Council adopts the Massage Establishments and Practitioners Ordinance.

## **PURPOSE AND BACKGROUND**

The purpose of the Massage Establishments and Practitioners Ordinance (Ordinance) is to establish comprehensive regulations for massage establishments and practitioners to protect the public health, safety and welfare by: (1) requiring a clean and safe environment for massage treatments; and (2) providing minimum standards for the conduct of massage.

### Current City Regulations

The City currently requires massage establishments to file a business registration application with the City. Prior to obtaining the business registration, however, the City requires a massage establishment to show proof of a County-issued business license (referred to by the County as a "massage parlor license"). As part of the business license, the County routes the application to various departments, including the Fire and Sheriff's Departments for review. The County also issues business licenses (referred to by the County as "massage technician license") for massage practitioners operating in the City. Section 6301 of the Agoura Hills Municipal Code requires compliance with the Los Angeles County Code regarding County business licensing.

Pursuant to Section 9312.2 (Commercial Land Use Table 1) of the Municipal Code, the City requires a Conditional Use Permit (CUP) for "massage parlors," as they are now defined in the Municipal Code, and they are regulated as "adult businesses," with special findings needed. The special findings are listed in Section 9673.7 of the Municipal Code, and include, for example, that the "adult business" is not located near the freeway corridor; is not located in close proximity to another adult use; and will not adversely affect a place of worship, school, park or playground within a 500-foot radius. Massage businesses are permitted with a CUP, and the special findings being made, in the Commercial Shopping Center (CS), Commercial Retail Service (CRS), Business Park-Office Retail (BP-OR) west of Palo Comado Canyon Road, and the Business Park-Manufacturing (BP-M) zones.

The Municipal Code does not contain any other provisions for massage services, such as operational or health and safety requirements.

### Compliance with SB 731 and AB 619

The proposed Massage Establishments and Practitioners Ordinance has been drafted to comply with the provisions of SB 731 and AB 619. The following is a summary of both SB 731 and AB 619, and an analysis of application of both state laws in preparing the Ordinance.

#### *SB 731*

In 2009, the State Legislature passed SB 731 (Business and Professions Code Section 4600 et seq.) to create a voluntary state certification process for the massage therapy profession. The new law provides for the certification of massage practitioners by the California Massage Therapy Council (CAMTC), a non-profit organization. Applicants for this state certification need to meet a series of requirements, including specified educational criteria and criminal background checks and fingerprinting.

Prior to SB 731, there were no statewide massage regulations, and the massage profession was subject to regulation by local jurisdiction. These regulations varied widely. SB 731 is intended to address massage therapy on a statewide basis, and treats massage practitioners similarly to other health care professionals in the state that currently are subject to certification or licensing of some kind. The popularity of massage has increased over the past twenty years, and the public more readily accepts massage practitioners as health care professionals.

Pursuant to SB 731, a city cannot require a massage establishment employing state-certified practitioners to get any other permits, special entitlements, or special approvals except for a business license and business registration. For example, these massage establishments cannot be required to get a CUP, but must be allowed by right in zoning districts, like that of other similar professional businesses. In other words, the massage establishments cannot be set apart or treated differently as other similar professional businesses. SB 731 did not define what these other professional businesses include. In practice, cities have considered personal services, such as hair or skin care salons, to be similar to massage establishments as businesses. However, SB 617, a follow up clarification bill, does provide greater information on the types of similar business professions. (see below). In addition, the massage establishments can no longer be considered "adult businesses" and no special findings can be required to allow massage establishments as "adult businesses."

SB 731 does allow cities to regulate massage establishments and practitioners with regard to business operations (e.g., hours of operation, minimum lighting provided) and adopt reasonable health and safety requirements (e.g., practitioner attire and hygiene, proper maintenance of facilities). City officials, as well as County officials, can inspect massage establishments, and can enforce the provisions of the Municipal Code.

The intent of SB 731 is to protect consumers by ensuring that massage practitioners are qualified and legitimate professionals, and also to validate the massage profession. For practitioners, the law offers a more streamlined and "portable" certification that can be used in many different cities and counties. For cities and counties, the law offers a simple, standardized, comprehensive process for ensuring that massage practitioners and establishments are qualified and legitimate.

According to SB 731, a massage practitioner can opt not to be CAMTC-certified. However, a city can require CAMTC certification for all practitioners, and many cities are opting for requiring this certification. Some cities, particularly those having a large proportion of massage establishments, and having regulatory provisions that addressed massage businesses prior to SB 731, do not require all practitioners to have certification from the CAMTC. Staff believes that the state certification offers an extra level of scrutiny and provides for a uniformity of standards for massage professionals, allowing for a simpler and more tightly monitored regulatory process. Therefore, staff is recommending that all massage practitioners be CAMTC certified. While a city can choose to not require state certification of all practitioners, and so develop an alternate regulatory process, staff believes that a different set of standards and regulations for those without state certification could complicate the regulatory process, possibly allowing for misuse. In any case, the City would still need to comply with the provisions of SB 731 for all practitioners who are state-certified regardless of whether the City requires state certification.

## *AB 619*

AB 619 was passed by the State Legislature and signed by the Governor this year; it will take effect January 1, 2012. AB 619 further amends the California Business and Professions Code regarding massage therapy. It clarifies some of the provisions of SB 731, and includes additional provisions and requirements not previously identified in SB 731, including how the members of the CAMTC are to be selected, CAMTC meeting protocol, and requirements for issuing a massage certificate, among others. Most important, AB 619 states that rules and requirements for massage practitioners and establishments can be no different than the requirements that are uniformly applied to all other individuals and businesses providing professional services, as defined in Section 13401 of the Corporations Code. Such professional services are various, and include: nurses, accountants, architects, professional security guards, construction contractors, and real estate brokers, among others. In other words, the City cannot require any permits or approvals for massage practitioners or establishments that are not also required of these other professional services. As previously noted, the City can no longer require a CUP and special findings for a massage business, and so massage therapy would not be treated differently than other listed professions, such as the examples noted above. All of the above noted businesses require a City business registration. However, the County does not require business licenses for these professionals. As such, the City cannot require that a massage practitioner also obtain a County business license for "massage technician." AB 619, however, does allow a city to require a business license for a massage establishment. In summary, no special restrictions or additional approvals can be placed upon massage therapy.

Therefore, staff has prepared the Ordinance to be consistent with SB 731 and AB 619. In particular, the Ordinance:

- Requires all practitioners to have state certification.
- Retains currently allowed zoning districts for massage establishments.
- No longer requires a CUP.
- No longer considers massage establishments as "massage parlors" and "adult businesses" with special findings required.
- Continues to require City business registration for establishments and now requires practitioners also to obtain a City business registration. This allows the City to know who is practicing within the City.
- Continues to require a County business license for the massage establishment, but does not require a massage practitioner to have a County business license.
- Establishes operational and health and safety standards (e.g., hours of operation, cleanliness, patron attire) and allows for inspections.

## **PROPOSED ORDINANCE**

The following is a brief summary of the main provisions of the proposed Ordinance.

### Approval of Massage Establishments

The Ordinance allows massage establishments by right in the CS, CRS, CS-MU, BP-OR and BP-M districts. The CN and CS-MU are newly adopted zoning districts, adopted by the City Council on October 12, 2011 as part of the General Plan Implementation Zoning Ordinance Amendment. The allowed uses established for these two new zones are that of the CS zone, which includes massage. A massage establishment owner/operator must show evidence of a County business license and a business registration before being approved. The establishment and practitioners must comply with certain facility and operational requirements, as well as health, safety and physical hygiene requirements (see below).

Per the proposed Ordinance, massage as an “adult business” would not be allowed in the City. The proposed Ordinance acknowledges that massage establishments are not necessarily “adult businesses.” The popularity of massage has increased over the past several years, and massage can be health-related and therapeutic, as well as serving as a popular spa and salon treatment. In any case, the state certification provides a level of scrutiny of massage practitioners, with its security background checks and fingerprinting.

### Certification and Business Registration – Practitioners (9662.2)

Each massage practitioner needs to obtain a City business registration. This is in addition to the business registration necessary for the massage establishment (see below). The purpose of requiring each practitioner to be registered as a business is to be able to identify those individuals providing massage services in the City and ensure that all practitioners are state-certified. Prior to obtaining a business registration, a massage practitioner would need to show evidence of a state certificate. This responsibility lies with the City, not the County, since the County would not be able to issue business licenses for the state-certified practitioners and the County does not require that practitioners have state certification.

### Business Registration and License – Establishments (9662.3)

As noted previously in this report, all massage establishment owners/operators need to obtain a County business license, as well as a City business registration. Prior to receiving a business registration an owner/operator must show evidence of a County business license. Again, as noted above, each practitioner within a massage establishment must be state certified and obtain a business registration from the City.

### Exceptions for Certain Professionals (9662.4)

The Ordinance applies to massage professionals, and does not regulate limited incidental massage performed within the scope of other licensed professionals’ work, such as chiropractors, hair stylists, physical therapists, and nurses. For example, a licensed hair stylist can perform a

scalp massage as part of a shampoo treatment, and he/she would not be considered a massage practitioner and regulated as part of this Ordinance.

#### Operational and Facility Requirements (9662.5)

The City can set requirements for how a massage establishment operates and requirements for conditions at the facility. For example, the Ordinance sets forth allowed hours of operation, minimum lighting standards, and requirements for when doors may be locked, among other items. Additionally, the Ordinance prohibits "outcall massage," which consists of massage performed outside a massage establishment where the practitioner is employed or massage by a practitioner not employed at a fixed location. With outcall massage, the operational and facility requirements, as well as health, safety and physical hygiene requirements cannot be monitored or guaranteed.

#### Health, Safety and Physical Hygiene Requirements (9662.6)

These provisions ensure proper practitioner and client attire and conduct, and that the facility is well maintained and cleaned. In this section, the Ordinance outlines the type of massage table or chair to be used, and how linens must be cleaned. Also, the Ordinance prohibits the use of alcohol or drugs on the premises.

#### Inspections (9662.8)

Investigating officials of the City and County may enter a massage establishment periodically during regular business hours to make reasonable inspections and observations, and to enforce compliance with regulations, including building and fire, as well as provisions of the Ordinance.

### **COMPLIANCE**

Existing establishments and practitioners have one (1) year from the time the Ordinance becomes effective (i.e., 30 days from second reading of the Ordinance by the City Council) to obtain the necessary business registration and/or business license, as well as to obtain a practitioner state certification.

### **NOTICE TO MASSAGE ESTABLISHMENTS AND PRACTITIONERS**

A letter describing the proposed Ordinance provisions was mailed to known businesses in the City that provide massage therapy. The purpose of the letter was to provide advance notice to existing massage establishments and practitioners about proposed changes in City regulations. A copy of the proposed Ordinance was attached to each letter. To date, no recipients have contacted staff with any questions or comments.

### **ENVIRONMENTAL REVIEW**

City staff has determined that the Ordinance is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects that have the potential for causing a

significant impact on the environment. City staff found that there is no possible significant effect related to the Ordinance. The Ordinance regulates massage establishments and practitioners and how their businesses are conducted, and the Ordinance would not contribute to any physical changes to the environment. Therefore, no further action is required under CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines (14 CCR Section 15061(b)(3)).

## **RECOMMENDATION**

Staff recommends that the Planning Commission conduct a public hearing and adopt a Resolution recommending that the City Council adopts the Massage Establishments and Practitioners Ordinance.

Attachments:

1. Draft Resolution
2. Draft Massage Establishments and Practitioners Ordinance

Case Planner: Allison Cook, Principal Planner

**Attachment 1**



RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND THE MUNICIPAL CODE AND ADOPT AN ORDINANCE REGARDING NEW REGULATIONS FOR MASSAGE ESTABLISHMENTS AND PRACTITIONERS (CASE # 11-ZOA-006)**

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

WHEREAS, the Planning Commission has considered the Massage Establishments and Practitioners Ordinance, which amends the City's Municipal Code to establish comprehensive regulations for massage establishments and practitioners by amending paragraph (g) and adding paragraph (h) of Section 6301 of Chapter 3 of Article IV, amending Section 9120.1.A (G) of Part 3 of Chapter 1 of Article IX, amending Section 9312.2 of Part 2 of Chapter 3 of Article IX, and adding Division 12 of Part 2 of Chapter 6 of Article IX of the Agoura Hills Municipal Code; and

WHEREAS, a duly noticed public hearing was held on November 17, 2011 at 6:30 p.m. in the City Hall Council Chambers, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid hearing was duly given; and

WHEREAS, evidence, both written and oral, was duly presented to and considered by the Planning Commission of the City of Agoura Hills at the aforesaid public hearing; and

WHEREAS, after close of the public hearing, the Planning Commission considered all public comments received both before and during the public hearing, the presentation by City staff, the staff report, the recommendations, and all other pertinent documents and associated actions regarding the proposed Ordinance; and

WHEREAS, the purpose of the Ordinance is to protect the public health, safety, and welfare by: (1) requiring a clean and safe environment for massage treatments; and (2) providing minimum standards for the conduct of massage; and

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA"), as amended, the CEQA Guidelines promulgated thereunder, and the City's local CEQA Guidelines, City staff has determined that the Ordinance is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant impact on the environment. City staff found that there is no possible significant effect related to the Ordinance, since the Ordinance would not contribute to any physical changes to the environment, and therefore, no further action is required under CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines (14 CCR Section 15061(b)(3)); and

WHEREAS, the Planning Commission has independently reviewed the project, and based upon the whole record before it, in the exercise of its independent judgment and analysis, concurs that City staff has correctly concluded that it can be seen with certainty that there is no possibility the proposed amendments to the Code and the effects from their adoption may have a significant effect on the environment.

WHEREAS, the custodian of records for the project and all materials that constitute the record of proceedings upon which the Planning Commission's decision is based is the City Clerk of the City of Agoura Hills, and those documents are available for public review in the Office of the City Clerk located at 30001 Ladyface Court, Agoura Hills, California 91301.

NOW, THEREFORE, BE IT RESOLVED, based upon the findings and conclusions set forth above, that the Planning Commission of the City of Agoura Hills recommends that the City Council adopt the Massage Establishments and Practitioners Ordinance.

PASSED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_ 2011, by the following vote to wit:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

---

Steve Rishoff, Chair

ATTEST:

---

Mike Kamino, Secretary

## **Attachment 2**

ORDINANCE NO. 11- \_\_\_\_\_

AN ORDINANCE OF THE CITY OF AGOURA HILLS,  
CALIFORNIA, AMENDING THE MUNICIPAL CODE AND  
ADOPTING NEW REGULATIONS FOR MASSAGE  
ESTABLISHMENTS AND PRACTITIONERS

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, does  
ordain as follows:

A. Recitals.

(i) The City of Agoura Hills ("City") has adopted regulations governing massage establishments pursuant to its police powers to protect public health, safety, and welfare. Specifically, the City has adopted Title IX of the Agoura Hills Municipal Code ("Code") that sets forth a comprehensive zoning law that includes certain zoning restrictions, permitting and findings applicable to massage establishments, particularly in sections 9312.2 and 9312.3 to part 2 of chapter 3, and section 9673.7 of division 3 to part 3 of chapter 6 of the Title IX of the Code.

(ii) In 2009, the Legislature passed SB 731 (Business and Professions Code Section 4600 et seq.), which created a new entity, the non-profit California Massage Therapy Council (CAMTC), with regulatory authority over the certification of massage therapists and practitioners throughout the State of California. SB 731 also imposed new limitations on the authority of cities to enact or enforce regulations applicable to CAMTC-certified individual and massage establishments employing only those individuals and preempting the application of certain land use, zoning and facility requirements on such massage establishments. SB 731 does allow cities to adopt and enforce certain business licensing and reasonable health and safety requirements for massage establishments and massage practitioners.

(iii) The City desires to amend the Code so that its provisions are consistent with SB 731, and there is a need for regulations pertaining to massage practitioners and establishments in order to protect the public health, safety, and welfare.

(iv) On \_\_\_\_\_, 2011, the Planning Commission of the City of Agoura Hills held a duly noticed public hearing to consider Ordinance No. 11-\_\_\_\_\_, and received testimony from City staff and all interested parties regarding the proposed Code amendments. Following the close of the public hearing, the Planning Commission adopted Resolution No. 11 - \_\_\_\_\_ recommending approval of Ordinance No. 11-\_\_\_\_\_.

(v) On \_\_\_\_\_, 2011, the City Council of the City of Agoura Hills conducted and concluded a duly noticed public hearing concerning the proposed Code amendments contained herein as required by law, and received testimony from City staff and all interested parties regarding the proposed amendments.

(vi) All legal prerequisites to the adoption of the Ordinance have occurred.

**B. Ordinance.**

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The facts set forth in the Recitals, Part A of this Ordinance, are true and correct.

**SECTION 2. Environmental Review.** Pursuant to the California Environmental Quality Act ("CEQA"), and the City's local CEQA Guidelines, City staff has determined that Ordinance No. 11- \_\_\_\_ is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. City staff found that there is no possible significant effect related to Ordinance No. 11 - \_\_\_\_ ("project"), since the Ordinance would not contribute to any physical changes to the environment. Therefore, no further action is required under CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines (14 CCR § 15061(b)(3)). The City Council has reviewed the project, and based upon the whole record before it, in the exercise of its independent judgment and analysis, concurs that City staff has correctly concluded that it can be seen with certainty that there is no possibility the proposed amendments to the Code and the effects from that adoption may have a significant effect on the environment.

**SECTION 3.** Paragraph (g) of Section 6301 of Chapter 3, Article IV of the Agoura Hills Municipal Code is hereby repealed and replaced in its entirety with the following amendment to the license ordinance of the City of Agoura Hills.

"(g) Notwithstanding the provisions of section 6300, the license ordinance of the City of Agoura Hills is amended by deleting Chapter 7.54 (Massage) in its entirety and replacing it with a new Chapter 7.54 to read as follows:

*Chapter 7.54. Massage*

*7.54.010. Massage regulations.* Every person conducting or operating a massage establishment shall comply with the rules and regulations found in Division 12 (Massage Establishments and Practitioners), Part 2 (Special Regulations), Chapter 6 (General Provisions), Article IX (Zoning) of the Agoura Hills Municipal Code.

*7.54.020. Business license required.* Every person conducting or operating a massage establishment shall first procure a license and for each such place pay an annual license fee in the amount set forth under the appropriate headings in section 7.14.010 of this title."

**SECTION 4.** Section 6301 of Chapter 3, Article VI of the Agoura Hills Municipal Code is hereby amended by the addition thereto of a new paragraph (h) to the license ordinance of the City of Agoura Hills to read as follows:

“(h) Notwithstanding the provisions of section 6300, the license ordinance of the City of Agoura Hills is amended by amending section 7.14.050 (Fee Schedule) to replace the term “Massage Parlor” with the term “Massage Establishment,” and delete the term “Massage Technician.”

**SECTION 5.** Section 9120.1.A (G) of Part 3 of Chapter 1 of Article IX (Zoning Ordinance) of the Agoura Hills Municipal Code is hereby amended to read as follows:

“G. *Adult business.* “Adult business” means any business which, because minors are excluded by virtue of their age as a prevailing business practice, is not customarily open to the general public, including but not limited to, an adult arcade, adult bookstore, adult theater, cabaret, love parlor, ~~massage parlor~~, model studio, nude studio, sexual catharsis center, sexual encounter shop, sexual novelty store or any other similar use wherein the preponderant business is the offering of services, materials and/or products which have as their dominant theme the sexual arousal, sexual gratification and/or sexual stimulation of a customer. This definition does not apply, nor shall be interpreted to apply, to any business conducted, operated by or employing licensed chiropractors, licensed physicians, licensed physical therapists, licensed psychologists, licensed social workers or licensed marriage and family counselors, or state certified massage practitioners or therapists when performing professional services under or pursuant to the respective license or certificate held.”

**SECTION 6.** Item 3 in the “M” list in Section 9312.2 (Commercial use table 1), Part 2 (Commercial Use Tables), Chapter 3 (Commercial Districts), Article IX (Zoning) of the Agoura Hills Municipal Code is hereby amended as follows:

TABLE 1. PERMITTED USES WITHIN THE BUILDABLE AREA OF COMMERCIAL LOTS

	USE, SERVICE OR FACILITY	COMMERCIAL					BUSINESS PARK	
		CS	CRS	CR	CN	CS-MU	BP-OR	BP-M
	Unless otherwise indicated, listings denote retail sales operations							
3.	Massage establishment	QL	QL		QL	QL	QL	QL

**SECTION 7.** Paragraph L of Section 9312.3. Special conditions, Part 2, Chapter 3, Article IX of the Agoura Hills Municipal Code is amended by replacing “L” in its entirety as follows:

“L. Permitted subject to the provisions of section 9662 et seq.”

**SECTION 8.** Division 12 “Massage Establishments and Practitioners” is hereby added to Part 2 (Special Regulations), Chapter 6 (General Provisions), Article IX (Zoning) of the Agoura Hills Municipal Code beginning at Section 9662 to read as follows:

“DIVISION 12. MASSAGE ESTABLISHMENTS AND PRACTITIONERS

**9662. Purpose.**

The purpose and intent of this division is to establish comprehensive regulations for massage establishments in order to protect the public health, safety, and welfare by: (1) requiring a clean and safe environment for massage treatments; and (2) providing minimum standards for the conduct of massages.

#### **9662.1 Definitions.**

**“CAMTC”** means the California Massage Therapy Council created under Chapter 10.5 (commencing with Section 4600) of Division 2 of the Businesses and Professions Code.

**“Massage”** means the application of various techniques to the muscular structure and soft tissues of the human body, including but not limited to, any method of pressure or friction against, stroking, kneading, rubbing, tapping, compressing, pounding, vibrating, rocking or stimulating of external surfaces of the body with hands or the aid of any apparatus or other appliances or devices, with or without supplementary aids such as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparations for any consideration or compensation. The term, “massage,” does not include acupuncture, which is defined in section 6301 of the code.

**“Massage establishment”** means a business or establishment, including a sole proprietor or independent contractor, that offers massage services at a fixed place of business, and also includes all establishments or businesses where massage is provided as an ancillary service, such as gyms, clubs, day spas and professional offices where such massage is not otherwise exempt under this division.

**“Massage practitioner”** means any person who gives or administers to another person for any form of consideration whatsoever a massage as defined in this section. The terms “massage therapist,” “massage technician,” or any other terms used within the massage industry are included within this definition. Massage practitioner also includes any person to whom a valid “massage therapist” or “massage practitioner” certificate has been issued by the CAMTC pursuant to sections 4601 and 4604 of the California Business and Professions Code, or any successor provision thereto.

**“Outcall massage”** means any massage performed by a massage practitioner outside the massage establishment where the massage practitioner is employed, or a massage administered by any person who is not employed by a fixed location massage establishment in the city.

**“Person”** means any individual, firm, association, partnership, corporation, joint venture, limited liability company or partnership, or combination of individuals in whatever form or character.

**“Specified anatomical areas”** means the following human anatomical areas: genitals; pubic regions; buttocks; anus; and female breasts below a point immediately above the top of the areola.

#### **9662.2 CAMTC Certification and Business Registration Required.**

- A. No person shall act as a massage practitioner unless such person holds and maintains a current, valid massage therapist or massage practitioner certification issued by the CAMTC. All massage practitioners shall file a copy of their current, valid massage therapist or massage practitioner CAMTC certification with the director.
- B. In addition to the requirement set forth in subsection (A), no person shall act as a massage practitioner in or upon any premises within the city, and administer a massage within the city without first obtaining a city business registration pursuant to chapter 8 of title VI of the code.

**9662.3 Massage Establishment Registration and License Required.**

- A. No person shall own or operate a massage establishment in or upon any premises within the city without first obtaining a city business registration for the establishment pursuant to chapter 8 of title VI of the code, and a massage parlor business license from the county pursuant to chapter 7.54 of the Los Angeles County Code. A separate business registration and license shall be obtained for each separate establishment owned or operated by such person.
- B. No person may own or operate a massage establishment in or upon any premises within the city unless all persons providing massage at or on behalf of the massage establishment have a CAMTC certificate, and have valid and current city business registration.

**9662.4 Exceptions.**

- A. Except as provided in subsection B, the requirements of this division do not apply to the following classes of individuals while they are engaged in the performance of their respective professions:
  - 1. Physicians, chiropractors, osteopaths, podiatrists, physical therapists, registered nurses or vocational nurses duly licensed to practice their respective profession in the State of California under the provisions of the California Business and Professions Code, while performing activities encompassed by such professional licenses.
  - 2. Other health care personnel, including acupuncturists, engaged in the healing arts that are regulated and licensed by the State of California pursuant to Division 2 of the California Business and Professions Code.
  - 3. Barbers or cosmetologists, including estheticians, electrologists, and manicurists carrying out their particular occupation or business, who are duly licensed by the State of California, provided that nothing in this subsection shall authorize such individuals to provide massage services beyond the scope of the individual's license or certificate, and such massage is limited solely to the neck, face, scalp, feet, hands, arms, and lower limbs



up to the knees, of their patrons. Nothing in this subsection shall exempt any establishment from the CAMTC certification requirements provided in this chapter if massage services are provided by anyone other than a barber or cosmetologist.

4. State-licensed hospitals, nursing homes, and other state-licensed physical or mental health facilities and their employees.
  5. Athletic trainers certified by the State of California performing training services at professional, amateur or school athletic events or facilities, so long as such persons do not practice massage therapy as their primary occupation.
  6. Registered schools and their employees that provide massage therapy education or training and their students in training, provided that such students perform massage therapy only under the direct personal supervision of an instructor.
- B. Any individual who is employed by any person or persons duly exempted under part A of this section and administers massage services within the scope of his or her employment shall be required to obtain a massage therapist or massage practitioner certification from the CAMTC.

#### **9662.5 Operational and Facilities Requirements.**

Each massage establishment shall comply with the following operations and facilities requirements:

- A. Hours of Operation. No massage establishment shall be kept open for business between the hours of 10:30 p.m. and 7:00 a.m.
- B. Signs. A recognizable and legible sign complying with the requirements of this code shall be posted at the main entrance identifying the location as a massage establishment.
- C. Certificate Identification. All massage practitioners must maintain on their persons or on the premises their CAMTC certificate and/or CAMTC identification card for massage.
- D. Lighting. A minimum lighting shall be provided in accordance with the building code, and, in addition, at least one artificial light of not less than 40 watts shall be provided in each enclosed room or booth where massage services are being performed on a patron.
- E. Locking of Premises.

1. The doors to any cubicle, room, booth or other area in which massages are given may only be locked when staff is unavailable to assure the security of patrons and massage practitioners who are behind closed doors.
  2. The exterior doors of the premises of a massage establishment, excepting entrances reserved for employees and deliveries, may only be locked during business hours when staff is unavailable to assure the security of the premises.
- F. Ventilation. Minimum ventilation shall be provided in accordance with the building code.
- G. Recording of Activities Prohibited. No building or part thereof where massage is being conducted shall be equipped with any electronic, mechanical or artificial device used, or 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.
- H. Register of Employees. Each massage establishment must maintain a register of all employees. The register must contain the names of all employees, their home addresses, age, birth date, gender, height, weight, color of hair, eyes, telephone number, social security number, date of employment and termination, if any, and the duties of each employee. All such information must be maintained in the register for a period of two years following such employee's termination. Such employee register must be available for inspection at the massage establishment to representatives of the city during regular business hours.
- I. Patron Facilities. Adequate dressing and toilet facilities shall be provided for patrons.
- J. General Prohibition on Outcall Massage. No outcall massage is permitted in the city.
- K. All other applicable ordinances, laws, rules and regulations shall be satisfied.

#### **9662.6 Health, Safety, and Physical Hygiene Requirements.**

Each massage establishment must comply with the following requirements, as applicable:

- A. Practitioner Attire and Hygiene. All employees and massage practitioners shall be dressed appropriately in clean, opaque clothing that does not expose specified anatomical areas, as defined in this division, when administering massage in or upon the premises. "Dressed appropriately" shall further mean clothing which, at a minimum, provides complete coverage from mid-thigh to three inches below the collarbone. Any uniforms approved by the massage establishment shall comply with these requirements. There shall be no nudity by employees of the

establishment or massage practitioners, and employees and practitioners shall not reveal specified anatomical areas, as defined in this division, while customers or patrons are present. All practitioners shall thoroughly wash their hands and arms with hot water and soap before and after each massage treatment.

- B. Patron Attire. All patrons shall be appropriately draped with a clean, white, opaque towel sufficient to cover specified anatomical areas while receiving massage services. All bathrobes or other garments provided for the use of patrons must either be disposed of after any use or laundered before their next use.
  
- C. Washbasins. A minimum of one (1) separate wash basin shall be provided in each massage establishment for the use of employees of any such establishment, which basin shall provide soap or detergent and hot and cold running water at all times, and shall be located within or as close as practicable to the area devoted to the performing of massage services. There shall also be provided at each washbasin sanitary towels placed in permanently installed dispensers.
  
- D. Maintenance of Premises and Equipment.
  - 1. All walls, ceilings, floors, pools, showers, bathtubs, saunas, steam rooms and all other physical facilities for the establishment shall be in good repair and maintained in a clean and sanitary condition. The walls in all rooms where water or steam baths, or showers, are given shall have a washable, mold-resistant surface.
  - 2. Wet and dry heat rooms, steam or vapor rooms, showers and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.
  - 3. Clean and sanitary towels and linens shall be provided for each patron of the establishment or each patron receiving massage services. No common use of towels or linens shall be permitted. Reuse of towels and linens shall be prohibited unless such towels and linens have first been laundered. Separate closed cabinets shall be provided for the storage of clean and soiled linen, and shall be plainly marked "clean linen" and "soiled linen."
  - 4. Disinfecting agents and sterilizing equipment shall be provided for any instruments used in administering any massage, and shall be disinfected and sterilized after each use.
  - 5. A massage table or chair must be provided in each massage room, and the massage must be performed on this massage table or chair with the exception of "Thai," "Shiatsu," or similar forms of massage, which may be provided on a padded mat on the floor. Standard or portable massage tables shall be used with a durable, washable plastic or other waterproof material as a covering. A clean sheet or other effective sanitary covering shall be placed over a padded floor

mat, and any floor area upon which a patron may lie, in the course of receiving a massage. Heavy white paper may be substituted for sheets, provided that such paper is used once for each person and then discarded into a sanitary receptacle. Foam pads more than four inches thick or more than four feet wide may not be used. Beds, mattresses and water beds may not be used in the administration of a massage.

6. All liquids, creams, or other preparations used on, or made available to, patrons shall be kept in clean and closed containers. Powders may be kept in clean shakers. All bottles and containers shall be distinctly and correctly labeled to disclose their contents. When only a portion of a liquid, cream, or other preparation is to be used on or made available to a patron, it shall be removed from the container in such a way as not to contaminate the remaining portion.
- E. Persons Using Drugs or Alcohol Prohibited. No alcoholic beverages shall be sold, served, furnished, kept, or possessed on the premises of any massage establishment. A person shall not enter, be, or remain in any part of a massage establishment while in the possession of, consuming or using any alcoholic beverage or drugs. The business licensee, manager, and every supervising employee shall not permit any such person to enter or remain upon such premises.
- F. Improper Solicitation or Performance of Services. Except to the extent required in writing by a state licensed medical practitioner, no massage therapy may be provided to a patron that results in intentional contact, or occasional and repetitive contact with the genitals, anus or areola of any patron. No massage practitioner may offer to or perform any act of prostitution as such term is defined in the California Penal Code.

#### **9662.7 Business Name.**

No person registered with the city as a business, and licensed by the county as a business to own or operate a massage establishment, shall operate under any name or conduct business under any designation not specified in the registration and license.

#### **9662.8 Inspections.**

Any and all investigating officials of the city, or county, as applicable, shall have the right to enter massage establishments from time to time during regular business hours to make reasonable inspections to observe and enforce compliance with building, fire, electrical, plumbing, or health and safety regulations, and to ascertain whether there is compliance with the provisions of this division.

#### **9662.9 Prohibited Advertising Practices.**

It is unlawful for any person who does not possess a valid massage practitioner or massage therapist certification issued by the CAMTC, and for any massage establishment that employs such a person, to:

- A. State or advertise or place any sign or card or any 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 practitioner.
- B. Hold oneself out or use the title of "certified massage therapist," "certified massage practitioner," or any other term, such as "licensed," "registered," or "CAMTC," that implies or suggests that such person holds certification issued by the CAMTC.

**9662.10 Regulations Nonexclusive.**

The provisions of this division regulating massage establishments and massage practitioners are not intended to be exclusive, and compliance therewith shall not excuse noncompliance with any other applicable provisions of this code or other law.

**9662.11 Conflicts**

If the provisions of this division conflict with or contravene other provisions of this code, the provisions of this division shall prevail as to all matters and questions arising out of the subject matter of this chapter."

**SECTION 9. Additional Compliance Period.** A massage practitioner currently practicing in the City will have until one (1) year from the effective date of this division to obtain a CAMTC certificate, as identified in section 9662.2(A), and a massage practitioner business registration from the city, as identified in section 9662.2(B). A massage establishment currently in operation in the City will have until one (1) year from the effective date of this division to obtain a county business license, as identified in section 9662.3(A), and a city business registration, as identified in section 9662.3(B).

**SECTION 10. Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that an one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 11. Certification and Effective Date.** The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published pursuant to state law within fifteen (15) days after its adoption, and this Ordinance shall become effective thirty (30) days after its adoption.

**PASSED, APPROVED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by  
the following vote to wit:

AYES: (0)  
NOES: (0)  
ABSENT: (0)  
ABSTAIN: (0)

---

Harry Schwarz  
Mayor

ATTEST:

---

Kimberly M. Rodrigues, MMC  
City Clerk

APPROVED AS TO FORM:

---

Craig A. Steele  
City Attorney