

## REPORT TO CITY COUNCIL

**DATE:** APRIL 13, 2016

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** GREG RAMIREZ, CITY MANAGER *GR*

**BY:** NATHAN HAMBURGER, ASSISTANT CITY MANAGER *lh*  
ALLISON COOK, ASSISTANT PLANNING DIRECTOR *ac*  
MICHELLE D'ANNA, CONTRACT PLANNER *md*

**SUBJECT:** INTRODUCTION OF ORDINANCE NO. 16-422 REVISING REGULATIONS APPLICABLE TO MASSAGE SERVICES, AND AMENDING ARTICLE IX (ZONING ORDINANCE) OF THE CITY OF AGOURA HILLS MUNICIPAL CODE (CODE), SPECIFICALLY PARAGRAPH L OF SECTION 9312.3 OF PART 2 OF CHAPTER 3, AND DIVISION 12 OF PART 2 OF CHAPTER 6 (CASE NO. ZOA-01176-2015) (CITY OF AGOURA HILLS, APPLICANT)

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The purpose of this report is to request that the City Council consider a Zoning Ordinance Amendment (ZOA) revising regulations applicable to massage services and amending Article IX (Zoning Ordinance) of the City of Agoura Hills Municipal Code (Code). The purpose of the proposed ZOA (ZOA-01176-2015) is to bring the current Code into compliance with Assembly Bill 1147, protecting the public health, safety and welfare; and balancing the desire to provide for massage in the City with the continuing need to minimize the potential negative secondary effects that sometimes occur with the operation of massage establishments.

On December 14, 2011, the City Council adopted the Massage Establishments and Practitioners Ordinance (Case No. 11-ZOA-006) to establish comprehensive requirements for massage establishments and practitioners, consistent with Senate Bill 731, the California Massage Therapy Act (SB 731). The State Legislature passed SB 731 (Business and Professions Code Section 4600, et seq.) in 2009, thereby creating 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 imposed new limitations on the authority of municipalities to enact or enforce regulations applicable to CAMTC-certified individuals, and massage establishments employing only those individuals. It also preempted the application of certain land use, zoning and facility requirements to such massage establishments. SB 731 allowed municipalities to adopt and enforce certain business licensing and reasonable health and safety and operational requirements for massage establishments, therapists, and practitioners, but did not allow municipalities to require any other permits in order to operate a massage establishment or perform massage.

Currently, massage establishments are allowed in the following zones in the City: Commercial Shopping Center, Neighborhood Commercial, Commercial Retail Service, Planned Office Manufacturing, Business Park - Manufacturing, and Business Park - Office Retail. No outcall massage, that is massage performed off the premises of a massage establishment, is allowed in the City presently. All massage practitioners/therapists working in the City must be CAMTC-certified. The City currently requires massage establishments and massage therapists/practitioners to obtain a City business license. The requirements are set forth in Chapter 8, Title VI of the Code.

In 2014, the State Legislature passed AB 1147 (Massage Therapy), which amended the California Massage Therapy Act (California Business and Professions Code Section 4600, et. seq.), and California Government Code Section 51034. AB 1147, which went into effect on January 1, 2015, provides stricter rules for CAMTC certificate holders in terms of displaying their certification; explicitly enumerates the types of massage activities prohibited; and provides stricter requirements, such as hours of schooling, to obtain a certificate. Additionally, AB 1147 discontinues the issuance of new massage "practitioner" certificates after January 1, 2015, but authorizes the renewal of massage "practitioner" certificates issued prior to January 1, 2015. From this point on, new certificates will be issued to massage "therapists" only. AB 1147 does allow cities to continue to adopt and enforce certain business licensing and reasonable health and safety and operational requirements for massage establishments and massage therapists, and allows municipalities to require other types of permits. Lastly, AB 1147 does not allow for a prohibition on outcall massage.

The proposed ZOA has been prepared in coordination with the City Attorney's office, and reflects some of the guidance on implementation of AB 1147 from a consortium, including the League of California Cities, the California State Association of Counties, the California Chapter of the American Planning Association, and the California Police Chiefs Association, in an effort to comply with the latest state requirements.

On November 5, 2015, staff mailed a letter to all known massage establishments in the City, as well as professional offices, such as chiropractors, that may offer massage, explaining the proposed ZOA and providing a brief summary of the proposed changes. In that letter, which was sent to 25 different businesses, staff provided City contact information and encouraged those with questions or concerns to contact City staff to discuss the changes. No responses to the letter were received.

At a regularly scheduled public hearing on December 3, 2015, the Planning Commission considered the ZOA in its earlier form. A public hearing notice was mailed to all massage establishments and other businesses that may offer massage on the mail list noted above. Staff outlined the proposed changes to the Zoning Ordinance relating to massage services, which included: revising definitions and terminology to be consistent with state law; stipulating a minimum distance separation between new massage establishments, such that no more than two (2) establishments may be allowed within a 1,000-foot radius of each other; requiring a Massage Establishment Permit for establishment owners, to be renewed annually; revising health and safety

requirements pursuant to the new state law; and allowing outcall massage, which was previously prohibited. A detailed list of these changes can be found in the Planning Commission staff report under Section II, Staff Analysis (Attachment 1).

During the public hearing, two members of the public, who spoke jointly and represented one establishment as owners, expressed concerns about some of the language in the proposed ZOA. The owners commented, in part, that advertising signs should be allowed to show the human body; storage of linens may not always be in closed cabinets and so this should not be a requirement; lighting should be allowed to be dimmed below 40 watts; recording on the premises should be allowed in portions of the establishment where massage is not occurring, for security reasons; information describing an employee's appearance should not be required to be provided; CAMTC certificates should not need to be displayed on a wall due to the potentially large number of employees at an establishment; and that additional services not listed on the schedule of services should not involve a lengthy review process by the City.

The Planning Commission indicated its support of the massage establishment 1,000-foot distance separation provision, and some members of the Commission also expressed concerns with some of the proposed language and language currently existing in the Zoning Ordinance. These comments included those made by the owners of the one massage establishment, discussed above, such as how an additional service may be added to the list of services provided; the requirement to provide personal information, including a physical description of each employee; prohibiting advertising signs depicting the human body; not allowing for lower watt lighting; and not allowing recording on the premises. The Commission expressed concerns about the requirement for massage establishments to close at 9:00 p.m., versus the previous time of 10:30 p.m.; the need to provide health and safety requirements and other regulations applicable to outcall massage; and the provision that, in extreme cases, an establishment may have its Massage Establishment Permit revoked if an employee has failed to comply with the requirements or conditions of the ZOA, even if unknown by the establishment owner. The Commission acknowledged that the Zoning Ordinance and proposed ZOA allow exceptions to the massage provisions for other professional services that are licensed by the state, such as chiropractors, acupuncturists, barbers, cosmetologists, manicurists, etc. These professionals may provide limited massage to clients while acting within the scope of their license. The Commission inquired whether interns or apprentices under these licensed professionals would also be allowed to perform limited massage.

City staff offers the following clarification to the above noted concerns.

- The addition of a service to the originally submitted schedule of services is meant to be a simple notification, and not an approval by the Planning Director, and so would not pose significant delay for the establishment owner.
- The language regarding advertising prohibits only depictions of the human body and language that would suggest that something other than what is listed in the

schedule of services is available. Therefore, not all images of the human form are prohibited.

- The Ordinance currently allows massage establishments to stay open until 10:30 p.m.. When staff informally surveyed massage establishments in the City, all but one closed before or at 9:00 p.m., and most closed by 8:00 p.m. Most massage establishments in the City and elsewhere do not typically have late hours. Therefore, the earlier closing time is viewed as appropriate.
- The ZOA contains provisions specifically for outcall massage (Section 9662.8). Since outcall massage does not occur at a fixed location, some of the regulations regarding massage would not apply to outcall massage. Examples include locking of premises and maintenance of premises.
- Non-massage related interns or apprentices are covered by the license of the licensed professional, and so would be allowed to conduct limited massage on portions of the body as allowed by the licensed professional's license for that particular profession (e.g., cosmetologist).
- The massage establishment owner is made responsible for the actions of the employees. Section 9662.3.E. lists grounds for revocation or suspension of a Massage Establishment Permit, which may occur at the discretion of the Planning Director upon substantial evidence and after appropriate notification. Note that revocation or suspension is not mandatory.

After deliberations, and on a 4-0 vote (Chair Northrup's seat was vacated following her election to the City Council), the Planning Commission recommended that the City Council not adopt the ZOA as drafted, and provided staff with comments on possible changes to the ZOA and original Ordinance. The Commission also recommended that staff further coordinate with massage establishments in the City on the proposed Ordinance revisions.

On February 2, 2016, at the request of the Planning Commission, staff sent a total of 27 letters to City massage establishments and places of business that may offer massage, along with a copy of the draft ZOA as it was presented to the Planning Commission on December 3, 2015. (Note that between November 5, 2015 and February 2, 2016, the City became aware of two additional businesses that were operating in the City that may offer massage services, and so those two businesses were included in the second mailing – a total of 27 businesses). Beginning on February 16 through March 1, staff contacted via telephone each massage establishment on the mailing list to confirm receipt of the letter, answer any questions about the proposed ZOA amendment, and provide an opportunity to meet with City staff to review the proposed ZOA and provide feedback.

Staff was able to speak with someone from each business for approximately 90 percent of the businesses on the list. One establishment met with staff to discuss the proposed ZOA and offer feedback. Three others asked questions over the phone. One

establishment e-mailed a list of questions to which staff responded. For the remaining businesses on the mailing list, some indicated that they do not offer massage, and therefore the ZOA does not apply to their business. Others reviewed the proposed ZOA and did not have any questions. The remaining business did not return staff calls or, in a few cases, could not be reached.

On March 8, 2016, staff met with the Land Use and Economic Development Committee (LUEDC) to discuss the proposed ZOA and review the proposed changes in response to the comments made during the Planning Commission hearing, as well as the items raised by massage establishment owners who provided feedback. The LUEDC was in favor of the ZOA as proposed by staff. In particular, the LUEDC indicated support for removing the requirement to provide information on an employee's home address, age, birth date, gender, height, weight, color of hair, and eye color, as long as this same information is available to City staff if needed. Staff has confirmed that the CAMTC maintains this information, and is available to the City upon request. The Committee concurred that allowing the massage establishment owner to be responsible for the conduct of employees while performing massage was appropriate. The Committee also supported changing the closing time at establishments from 10:30 p.m. to 9:00 p.m.; allowing a dimmer function on the lighting in a room where massage is occurring; prohibiting recording only in specific areas where massage is taking place; and maintaining the proposed language that prohibits advertising material depicting the human body or containing language that would suggest that any other services are available other than those described in the schedule of services.

In light of the comments received from the Planning Commission during the December 3, 2015 public hearing, from existing massage establishments in the City, and direction from the LUEDC, staff prepared a revised ZOA, which is proposed for your consideration at this time.

The ZOA is shown in track changes mode with strikeouts and underlines, displaying the specific changes proposed from the current Code language (Attachment 2). To summarize, the proposed amendments include the following:

<b>Code Section</b>	<b>Proposed Amendment</b>
9312.3	Requiring a minimum distance of separation between any new massage establishments so that no more than 2 establishments are located within 1,000 feet of each other
9662.1	Creating minor revisions to definitions
9662.2	Clarifying language to be consistent with AB1147
9662.3	Requiring each massage establishment owner to obtain a Massage Establishment Permit (MEP)
9662.4	Revising references to "business registration" (outdated) and instead referencing "business license"
9662.5	Clarifying language regarding exceptions for other professions

9662.6	Revising massage establishment operations and facilities requirements, including hours of operation, recordings, lighting, lists of services, and displaying of CAMTC certificates
9662.7	Revising health, safety and physical hygiene requirements, including maintenance of premises and equipment
9662.8	Allowing outcall massage and providing applicable health and safety standards for such massage
9662.11	Revising language for allowed advertising material
Throughout	Updating language referring to massage "practitioner" versus "therapist"

The ZOA also includes a provision in Section 9662.14 that existing massage establishments that are validly permitted as of the effective date of the ZOA (i.e., 30 days from the second reading of the Ordinance by the City Council) have 180 days to apply for and obtain a Massage Establishment Permit.

In response to the various comments enumerated above, the ZOA (Attachment 2) has been revised from the version presented to the Planning Commission in the following ways:

- An allowance for a dimmer function on the lighting where massage is performed (Section 9662.6.E.).
- Revising language to be consistent with state law by requiring display of certificates in areas where massage is provided, and not necessarily upon entry to the business (Section 9662.6.C; B&PC Section 4608(a)). While one massage establishment in the City requested that certificates not be required to be displayed due to limited wall space, staff recommends that the requirement for display be consistent with that of the State Business and Professions Code.
- Removal of the appearance and other personal information from the list of items to be provided for each employee as part of the Massage Establishment Permit.
- Clarifying language to allow recording in areas of the establishment where massage is not being performed, with the exception of restrooms and dressing rooms, and not prohibiting recording entirely within the establishment (Section 9662.6.H.).
- Re-wording of the advertising prohibition to be clearer about images of the human form that are not acceptable.
- Changing the specific timeframe for advising the City of a change in services from thirty (30) days' advance notice to within ten (10) business days of the change occurring (Section 9662.3.D.1.).
- Clarifying linen separation requirement (Section 9662.7.D.3.).

## **ENVIRONMENTAL REVIEW**

City staff has determined that the ZOA 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. The ZOA regulates massage establishments and practitioners/therapists and how their businesses are conducted, so the ZOA 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 respectfully requests the City Council conduct a public hearing, and introduce, read by title only, and waive further reading of the Ordinance revising regulations applicable to massage services, and amending Article IX (Zoning Ordinance) of the City of Agoura Hills Municipal Code, specifically Paragraph L of Section 9312.3 of Part 2 of Chapter 3, and Division 12 of Part 2 of Chapter 6, and make the environmental findings pursuant to the California Environmental Quality Act.

### **Attachments:**

1. Planning Commission Meeting Minutes of December 3, 2015
2. Planning Commission Staff Report, dated December 3, 2015
3. Draft Ordinance No. 16-422

**Attachment 1**



**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT**

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**MINUTES OF THE REGULAR SCHEDULED MEETING OF  
THE PLANNING COMMISSION  
December 3, 2015**

**CALL TO ORDER:**

Vice Chair Anstead called the meeting to order at 6:30 p.m.

**FLAG SALUTE:**

Commissioner O'Meara

**ROLL CALL:**

Vice Chair Chris Anstead, Commissioners Michael Justice, John O'Meara, and Curtis Zacuto

Also present were Assistant City Manager Nathan Hamburger, Planning Director Doug Hooper, City Attorney Candice Lee, Assistant Planning Director Allison Cook, Director of Public Works/City Engineer Ramiro Adeva, Associate Planner Valerie Darbouze, Public Works Project Manager Kelly Fisher, Planning Consultant Michelle D'Anna, Traffic Consultant Carlie Campuzano, Joe Power of Rincon Consultants, Inc., and Recording Secretary Sheila Keckhut.

**APPROVAL OF AGENDA:**

Commissioner O'Meara recommended that Agenda Item 3 (Case No. ZOA-01176-2015) be moved to Item 2 on the Agenda.

On a motion by Commissioner O'Meara, seconded by Commissioner Justice, the Planning Commission approved the December 3, 2015 Meeting Agenda, with the recommended item change. Motion carried 4-0.

**PUBLIC COMMENTS**

None

**APPROVAL OF MINUTES**

1. Minutes – November 5, 2015 Planning Commission Meeting

On a motion by Commissioner O’Meara, seconded by Commissioner Justice, the Planning Commission moved to approve the revised Minutes of the November 5, 2015, Planning Commission Meeting. Motion carried 3-0-1. Commissioner Zacuto abstained.

**NEW PUBLIC HEARING**

2. REQUEST: Request for the Planning Commission to adopt a Resolution recommending that the City Council adopt an Ordinance revising regulations applicable to massage services, and amending Article IX (Zoning Ordinance) of the City of Agoura Hills Municipal Code, specifically paragraph L of Section 9312.3 of Part 2 of Chapter 3, and Division 12 of Part 2 of Chapter 6; and make a finding of exemption under the California Environmental Quality Act.

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

CASE NO.: ZOA-01176-2015

LOCATION: Citywide

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

RECOMMENDATION: Staff recommended that the Planning Commission adopt a Resolution recommending that the City Council adopt an Ordinance revising regulations applicable to massage services.

PUBLIC COMMENTS: Vice Chair Anstead opened the public hearing.

Dylan Donate, Massage Envy

Glennnda Donate, Massage Envy

Vice Chair Anstead closed the public hearing.

**ACTION:** On a motion by Commissioner O'Meara, seconded by Commissioner Justice, the Planning Commission moved to recommend the City Council not adopt an Ordinance revising regulations applicable to massage services; and to re-evaluate the existing massage ordinance. Motion carried 4-0.

**CONTINUED PUBLIC HEARING**

3. **REQUESTS:** Request for the Planning Commission to approve: 1) the merger of two parcels by way of a Vesting Tentative Parcel Map; 2) a Site Plan/Architectural Review to construct a new 45,000 square-foot, two-story fitness facility building and a 4,000 square-foot, single-story retail/fast service restaurant building on a vacant site; 3) an Oak Tree Permit to remove two (2) oak trees and encroach into the protected zone of one (1) other oak tree for the proposed construction; 4) a Sign Permit to allow for a sign program; 5) Variances to exceed the maximum allowable height of the fitness building from 35 to 38 feet; to exceed the maximum allowable signage on the primary and secondary elevations of the fitness building; to reduce the required Freeway Corridor Overlay District rear yard setback from 76 to 35 feet; and to allow the encroachment of parking spaces, a public sidewalk, and other amenities within the required twenty-foot wide landscape planter required along one street frontage; and 6) the adoption of an Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

**APPLICANT:** Rosenheim & Associates for:  
Selleck Development Group, Inc.  
21550 Oxnard Street, Suite 780  
Woodland Hills, CA 91367

**CASE NOS.:** 14-SPR-003, 14-OTP-016, 14-VAR-003(A&B), 14-SP-040  
and VTPM 73266

**LOCATION:** 29431 & 29439 Agoura Road  
(A.P.Ns. 2061-004-015, 035 & 036)

**ENVIRONMENTAL DETERMINATION:** Initial Study/Mitigated Negative Declaration, per the California Environmental Quality Act.

**RECOMMENDATION:** Staff recommended the Planning Commission approve Site Plan/Architectural Review Case No. 14-SPR-003; Oak Tree Permit Case No. 14-OTP-016, Sign Permit Case No. 14-SP-040; Variance Case No. 14-VAR-003 (A&B); and Vesting Tentative Parcel Map Case No. 73266, subject to Conditions, based on the findings of the Draft Resolutions.

**PUBLIC COMMENTS:** Vice Chair Anstead opened the public hearing.

Brad Rosenheim, Rosenheim & Associates, Inc.,  
representing applicant.

Brian Poliquin, PK Architecture, representing the applicant.

Greg Gill, Architect representing LA Fitness.

Vice Chair Anstead closed the public hearing.

**RECESS:** Vice Chair Anstead called for a recess at 8:48 p.m.

**RECONVENE:** Vice Chair Anstead reconvened the meeting at 9:02 p.m.

Vice Chair Anstead reopened the public hearing.

Mark Hardy, Civil Engineer representing LA Fitness.

Dan Selleck, Selleck Development Group, Inc., applicant

Phil Ramuno, Old Agoura Home Owners Association

Ed Corridori, resident

Cyrena Nouzille, resident

Mike Tingus, representing applicant

**REBUTTAL:** Brad Rosenheim, Rosenheim & Associates, Inc. gave rebuttal regarding the project and answered additional questions of the Planning Commission.

Ken Smith, LA Fitness, Brian Poliquin, PK Architecture,  
and Dan Selleck, Selleck Development Group, Inc.,  
answered additional questions of the Planning Commission.

Vice Chair Anstead closed the public hearing.

Vice Chair Anstead reopened and closed the public hearing to ask applicant Dan Selleck, Selleck Development Group, Inc., additional questions.

**ACTION:**

On a motion by Commissioner O'Meara, seconded by Commissioner Zacuto, the Planning Commission moved to adopt Resolution No. 15-1144 for approval of the Initial Study/Mitigated Negative Declaration. Motion carried 3-1. Vice Chair Anstead opposed.

On a motion by Commissioner O'Meara, seconded by Commissioner Justice, the Planning Commission moved to adopt Resolution No. 15-1145 for approval of the Vesting Tentative Parcel Map Case No. 73266. Motion carried 4-0.

On a motion by Commissioner O'Meara, seconded by Commissioner Justice, the Planning Commission moved to adopt Resolution No. 15-1146 for approval of the Variance Case No. 14-VAR-003(A). Motion carried 3-1. Vice Chair Anstead opposed.

On a motion by Commissioner O'Meara, seconded by Commissioner Justice, the Planning Commission moved to adopt Resolution No. 15-1147 for approval of Oak Tree Permit Case No. 14-OTP-016. Motion carried 3-1. Vice Chair Anstead opposed.

On a motion by Commissioner O'Meara, seconded by Commissioner Zacuto, the Planning Commission moved to adopt Resolution No. 15-1147 for approval of Site Plan/Architectural Review Case No. 14-SPR-003, subject to amended conditions. Motion carried 3-1. Vice Chair Anstead opposed.

On a motion by Commissioner O'Meara, seconded by Commissioner Justice, the Planning Commission moved to approve Sign Permit Case No. 14-SP-040 and Variance Case No. 14-VAR-003(B). Motion failed 2-2. Vice Chair Anstead and Commissioner Zacuto opposed.

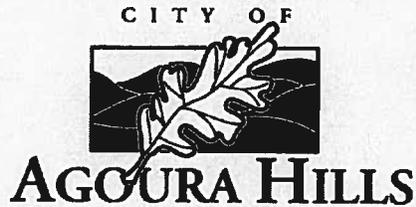
**PLANNING COMMISSION/STAFF COMMENTS**

None

**ADJOURNMENT**

At 11:53 p.m., on a motion by Commissioner Zacuto, seconded by Commissioner Justice, the Planning Commission adjourned the meeting to the next scheduled Planning Commission meeting on December 17, 2015. Motion carried 4-0.

**Attachment 2**



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**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT**

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**DATE:** December 3, 2015

**TO:** Planning Commission

**APPLICANT:** City of Agoura Hills

**CASE NO.:** ZOA-01176-2015

**LOCATION:** Citywide

**REQUEST:** Request for the Planning Commission to adopt a Resolution recommending the City Council adopt an Ordinance revising regulations applicable to massage services, and amending Article IX (Zoning Ordinance) of the City of Agoura Hills Municipal Code, specifically Paragraph L of Section 9312.3 of Part 2 of Chapter 3, and Division 12 of Part 2 of Chapter 6.

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

**RECOMMENDATION:** Staff recommends the Planning Commission adopt a Resolution recommending the City Council adopts an Ordinance revising regulations applicable to massage services.

**I. PURPOSE AND BACKGROUND**

On December 14, 2011, the City Council adopted the Massage Establishments and Practitioners Ordinance (Case No. 11-ZOA-006) to establish comprehensive requirements for massage establishments and practitioners, consistent with Senate Bill 731, the California Massage Therapy Act (SB 731). The State Legislature passed SB 731 (Business and Professions Code Section 4600 et seq.) in 2009, thereby creating 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 imposed new limitations on the authority of municipalities to enact or enforce regulations applicable to CAMTC-certified individuals, and massage establishments employing only those individuals, as well as preempting the application of certain land use, zoning and facility requirements on such massage establishments. SB 731 allowed municipalities to adopt and enforce certain business licensing and reasonable health and safety and operational requirements for massage establishments, therapists, and practitioners, but did not allow municipalities to require any other permits in order to operate a massage establishment or perform massage. Currently, massage establishments are allowed in the following zones in the City: Commercial Shopping Center, Neighborhood Commercial, Commercial Retail Service, Planned Office Manufacturing, Business Park - Manufacturing, and Business Park - Office Retail. No outcall massage, that is massage performed off the premises of a massage establishment, is allowed in the City presently. All massage practitioners/therapists working in the City must be CAMTC-certified.

The City currently requires massage establishments and massage therapists/practitioners to obtain a City business license. The requirements are set forth in the Agoura Hills Municipal Code (Code) Chapter 8, Title VI.

In 2014, the Legislature passed AB 1147 (Massage Therapy), which amended the California Massage Therapy Act (California Business and Professions Code Section 4600, *et. seq.*), and California Government Code Section 51034. AB 1147, which went into effect on January 1, 2015, provides stricter rules for CAMTC certificate holders in terms of displaying their certification; explicitly enumerates the types of massage activities prohibited; and provides stricter requirements such as hours of schooling to obtain a certificate. Additionally, AB 1147 discontinues the issuance of new massage "practitioner" certificates after January 1, 2015, but authorizes the renewal of massage "practitioner" certificates issued prior to January 1, 2015. From this point on, new certificates will be issued to massage "therapists" only. AB 1147 does allow cities to continue to adopt and enforce certain business licensing and reasonable health and safety and operational requirements for massage establishments and massage therapists, and allows municipalities to require other types of permits. Lastly, AB 1147 does not allow for a prohibition on outcall massage.

## **II. PROPOSED ZONING ORDINANCE AMENDMENT**

The purpose of this proposed Zoning Ordinance Amendment (ZOA-01176-2015) is to bring the current Code into compliance with AB 1147, protecting the public health, safety and welfare, and balancing the desire to provide for massage with the continuing need to minimize the potential negative secondary effects that sometimes may occur with the operation of massage establishments. Attached to this report is a copy of the Draft

Planning Commission Resolution recommending the City Council adopt the Ordinance, which is attached to the Draft Resolution. The Ordinance is shown in track changes mode with strikeouts and underlines, displaying the specific changes proposed. The main amendments proposed include the following:

- *Requiring each massage establishment to obtain a Massage Establishment Permit (MEP) (Section 9662.3).* The MEP would allow City staff to monitor each massage establishment and ensure that all massage therapists are CAMTC-certified and complying with City requirements for practicing massage. The MEP would be required to be renewed annually.
- *Allowing outcall massage and providing applicable health and safety standards for such massage (Section 2662.8).* Under AB 1147, no municipality may prohibit outcall massage, which is defined in Section 9662.1. Outcall massage, not being at a fixed location, would need to meet a similar, but separate, set of health and safety requirements than that of non-outcall massage performed at an establishment.
- *Updating language referring to massage “practitioner” versus “therapist” (throughout).* This language would be updated to be consistent with AB 1147, essentially “grandfathering” the term, “practitioner” and electing to provide any new certificate to a massage “therapist.” The current Code refers mostly to “massage practitioners” as opposed to “massage therapists.” The difference between the two is a product of SB 731, which established two tiers of certification: a) “massage practitioner,” requiring 250 hours from an approved school; and b) “massage therapist,” requiring 500 hours of education from an approved school along with passing a recognized exam. The issuance of new massage practitioner certificates has been discontinued, but massage practitioner certificates issued prior to January 1, 2015, may be renewed. Thus, even though massage practitioners can still be certified and practice under current state law, the most recent law establishes that all new massage professionals be certified as “therapists” and not “practitioners.” Therefore, the Ordinance, where applicable, proposes to replace the term “practitioner” with “therapist.”
- *Creating minor revisions to definitions (Section 9662.1).* The definition of “practitioner” and “therapist,” as discussed above, would be updated. References to certain body parts as being prohibited from massage have been removed, per AB 1147 (see definition of “Specified anatomical areas”).

- *Revising references to “business registration” (outdated) and instead referencing “business license” (Section 9662.4).* Each massage establishment owner and each massage therapist are required to obtain a Business License, the regulations of which are already established in Chapter 8, Title VI of the Code. “Business registration” referred to the time when business licenses were issued by Los Angeles County, and the City only issued business registrations. As of July 1, 2013, the City ceased issuing business registrations for massage establishments and instead took over the issuance of business licenses for massage. The County of Los Angeles no longer issues a business license to massage establishments.
- *Requiring a minimum distance of separation between massage establishments (Section 9662.1 and 9662.8).* AB 1147 gives local governments broad authority to select zoning districts that are most appropriate for massage, and to impose a restriction on the location of a massage establishment based upon a reasonable standard. The current zoning districts where massage is allowed, as noted above, are proposed to continue; no changes to allowed zoning districts are proposed. The City desires to regulate massage establishments and services in order to balance community needs and minimize the potential negative secondary effects sometimes associated with such businesses. The City recognizes the practice of massage as a valid professional field, and, at the same time, intends to discourage potential unlawful activity which sometimes may become associated with massage establishments. Furthermore, the City desires a mix of uses within the commercial and business park areas and not an over-concentration of any one use. Therefore, in an effort to prevent a proliferation of massage establishments within any particular neighborhood within the City, the proposed ZOA includes a condition upon all new massage establishments such that no more than two massage establishments may be located within a 1,000-foot radius. This change is shown below.

Section 9312.2. Commercial use table I (Permitted Uses within the Buildable Area of Commercial Lots), Part 2 (Commercial Use Tables), Chapter 3, Article IX of the Code states as follows:

	USE, SERVICE OR FACILITY	COMMERCIAL						BUSINESS PARK	
		CS	CRS	CR	CN	CS-MU	PO M	BP-OR	BP-M
3.	Massage establishment	L	L		L	L	L	L	L

Paragraph L of Section 9312.3. Special Conditions, Part 2, Chapter 3, Article IX of the Code is proposed to be revised as follows:

- “L. Permitted subject to the provisions of section 9662 et seq., and provided the following condition is met: no more than two (2) massage establishments are allowed within a 1,000-foot radius.”

There are at least two separate locations in the City where two massage establishments are situated within 1,000 feet of each other. These two locations would be in compliance with the proposed ZOA. In any case, existing massage establishments would be allowed to remain in their present locations. A third massage establishment within the 1,000-foot radius would not be allowed.

- *Massage establishment operations and facilities requirements (Section 9662.6) and health, safety and physical hygiene requirements (Section 9662.7).* AB 1147 imposes limitations on a local jurisdiction’s ability to regulate conditions and practices at massage establishments. In order to comply with AB 1147, minor changes are proposed to the current operations and facility standards, as well as those of health, safety and physical hygiene, to clarify, augment or revise requirements.

The Ordinance also includes a provision in Section 9662.14 that existing massage establishments that are validly permitted as of the effective date of this Ordinance (i.e., 30 days from the second reading of the Ordinance by the City Council) have 180 days to apply for and obtain a Massage Establishment Permit.

### III. NOTICE TO MASSAGE ESTABLISHMENTS

A letter describing the proposed ZOA 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 about proposed changes in City regulations. To date, no recipients have contacted City staff with any questions or comments.

### IV. ENVIRONMENTAL REVIEW

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. Staff found that there is no possible significant effect related to the Ordinance. The Ordinance regulates massage establishments and therapists 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)).

**V. RECOMMENDATION**

Staff recommends that the Planning Commission conducts a public hearing and adopts a Resolution recommending that the City Council adopts an Ordinance revising regulations applicable to massage services and amending Article IX (Zoning Ordinance) of the City of Agoura Hills Municipal Code.

**VI. ATTACHMENTS**

- \* Draft Resolution and Draft Ordinance

Case Planners: Michelle D'Anna, Contract Staff Planner  
Allison Cook, Assistant Planning Director

**DRAFT RESOLUTION NO. 15 - \_\_\_\_\_**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE REVISING REGULATIONS APPLICABLE TO MASSAGE SERVICES, AND AMENDING ARTICLE IX (ZONING ORDINANCE) OF THE CITY OF AGOURA HILLS MUNICIPAL CODE (CASE NO. ZOA-01176-2015)**

WHEREAS, the Planning Commission has considered the Ordinance attached hereto as "Exhibit A" (Case No. ZOA-01176-2015; "ZOA"), which will revise existing regulations of the City of Agoura Hills ("City") pertaining to massage establishments, massage practitioners, and massage therapists, and which will amend Article IX of the City of Agoura Hills Municipal Code (Zoning Ordinance); and

WHEREAS, in 2014, the State Legislature passed Assembly Bill 1147 ("AB 1147") (Massage Therapy Act) that amended the California Massage Therapy Act (California Business and Professions Code Section 4600, *et seq.*), and California Government Code Section 51034, and which went into effect January 1, 2015. The intent of the Massage Therapy Act is, in part, to vest local governments with broad control over land use in regulating massage establishments; enable customers and local governments to more easily identify certified massage professionals; provide for consistent statewide certification and oversight of massage professionals; and ensure that local governments impose and enforce only reasonable and necessary fees and regulations; and

WHEREAS, the purpose of the ZOA is to revise the City's massage regulations pertaining to massage establishments, massage practitioners, and massage therapists, consistent with AB 1147, in order to protect the public health, safety and welfare; comply with state regulations, and balance community needs while minimizing the potential negative secondary effects sometimes associated with such uses; and

WHEREAS, a duly noticed public hearing was held on December 3, 2015 at 6:30 p.m. in the City Hall Council Chambers, 30001 Ladyface Court, Agoura Hills, California, concerning the ZOA; and

WHEREAS, evidence, both written and oral, was duly presented to and considered by the City Planning Commission 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 ZOA; and

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 Planning Department, and those documents are available for public review at the Planning Department at City Hall, located at 30001 Ladyface Court, Agoura Hills, California 91301.

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

Section 1. The facts set forth in the Recitals, above, are true and correct.

Section 2. Pursuant to the California Environmental Quality Act ("CEQA"), the CEQA Guidelines, and the City's Local CEQA Guidelines, City staff has determined that adoption of the proposed ordinance ("project") 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 environmental effect related to the project, since it will not contribute to any physical changes to the environment. The Planning Commission has reviewed the project, and based upon the whole record before it, in the exercise of its independent judgment and analysis, concurs with City staff, and finds that there is no possibility that the project may have a significant effect on the environment. Therefore, the Planning Commission hereby finds that no further action is required under CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Section 3. Based upon the findings and conclusions set forth in the Recitals, including all evidence presented at the December 3, 2015, public hearing concerning this matter, the Planning Commission of the City of Agoura Hills hereby recommends that the City Council approve Case No. ZOA-01176-2015, adopt the ordinance attached hereto as Exhibit A, and approve the environmental determination set forth herein.

Section 4. The Planning Secretary shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 3<sup>rd</sup> day of December 2015, by the following vote, to wit:

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

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Chris Anstead, Vice Chair

Draft Resolution No. \_\_\_\_\_  
Page 3

Case No. ZOA-01176-2015

ATTEST:

\_\_\_\_\_  
Doug Hooper, Secretary

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
AGOURA HILLS, CALIFORNIA, REVISING REGULATIONS  
APPLICABLE TO MASSAGE SERVICES, AND AMENDING  
ARTICLE IX OF THE AGOURA HILLS MUNICIPAL CODE**

**A. Recitals.**

(i) The City of Agoura Hills ("City") has heretofore adopted regulations governing the provision of massage services pursuant to its police power to protect public health, safety, and welfare, in Division 12 of Part 2 of Chapter 6, and Section 9312.2 of Part 2 of Chapter 3, Article IX of the Agoura Hills Municipal Code ("Code").

(ii) In 2014, the State Legislature passed Assembly Bill 1147 ("AB 1147"), Massage Therapy Act, that amended the California Massage Therapy Act (California Business and Professions Code Section 4600, *et. seq.*), and California Government Code Section 51034, and which went into effect on January 1, 2015. The intent of the Massage Therapy Act is, in part, to vest local governments with broad control over land use in regulating massage establishments; enable consumers and local governments to more easily identify certified massage professionals; provide for consistent statewide certification and oversight of massage professionals; and ensure that local governments impose and enforce only reasonable and necessary fees and regulations.

(iii) There is a need to revise the City's massage regulations pertaining to massage therapists and practitioners, and massage establishments, consistent with AB 1147, in order to protect the public health, safety, and welfare, comply with state regulations, and balance community needs while minimizing the potential negative secondary effects sometimes associated with such uses.

(iv) The health and safety regulations set forth herein are not intended to provide the exclusive regulation of massage establishments and services. Massage establishments and massage practitioners and therapists must also comply with any and all other applicable local and state regulations, including the California Massage Therapy Act, and business licensing and zoning regulations of the City.

(v) On December 3, 2015, the City Planning Commission held a duly noticed public hearing to consider the proposed ordinance to revise the regulations applicable to massage services ("Ordinance"), 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. 15-\_\_\_\_\_, recommending approval of this Ordinance.

(vi) On \_\_\_\_\_, the City Council conducted and concluded a duly noticed public hearing concerning the Ordinance as required by law, and received testimony from City staff and all interested parties.

(vii) 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"), the CEQA Guidelines, and the City's Local CEQA Guidelines, City staff has determined that adoption of this Ordinance ("project") 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 the project, since it will 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 CEQA Guidelines. 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 there is no possibility that the project may have a significant effect on the environment.

**SECTION 3.** Paragraph L of Section 9312.3 (Special conditions) of Part 2 (Commercial Use Tables) of Chapter 3 (Commercial Districts) of Article IX of the Code is hereby amended to read:

"L. Permitted subject to the provisions of section 9662, et seq., and provided the following condition is met: no more than two (2) massage establishments are allowed within a 1,000-foot radius."

**SECTION 4.** Division 12 (Massage Establishments and Practitioners) of Part 2 (Special Regulations) of Chapter 6 (General Provisions) or Article IX (Zoning) of the Code, beginning at Section 9662, is hereby amended to read as follows:

**"DIVISION 12. MESSAGE ESTABLISHMENTS AND MESSAGE PRACTITIONERS AND THERAPISTS**

**9662. Purpose.**

The purpose and intent of this division is to establish comprehensive regulations governing the provision of massage services ~~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.**

[The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

*CAMTC* means the California Massage Therapy Council created under Chapter 10.5 (commencing with Section 4600) of Division 2 of the California 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 acupressure, 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~~ therapist* 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," "massage practitioner," or any other terms used within the massage industry that refer to one who performs massage, are included within this definition. ~~Massage practitioner~~ therapist also includes any person to whom a current and 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, and includes massage practitioner certificates issued prior to January 1, 2015, which may be renewed by the CAMTC.

*Outcall massage* means any massage performed by a massage ~~practitioner~~ therapist outside the massage establishment where the massage ~~practitioner~~ therapist 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 perform massage for compensation of any kind, or otherwise act as a massage ~~practitioner~~ therapist in the city, including a therapist providing massage at a massage establishment or performing outcall massage, unless such person possesses ~~holds and maintains~~ a

current, valid massage therapist or massage practitioner certification issued by the CAMTC, and provides massage services consistent with the requirements of the California Business and Professions Code. All certified massage practitioners and massage therapists shall annually 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. own or operate a massage establishment within the city unless all persons providing massage at or on behalf of the massage establishment have a current and valid CAMTC certificate.~~

**9662.3      Massage establishment permit 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~~ massage establishment permit (MEP) for the establishment, in accordance with the requirements of this division, 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 ~~MEP shall be obtained for each separate establishment owned or operated by such person. Each person having any percentage of ownership interest in a massage establishment for which a MEP is applied for must comply with the requirements of this section. A MEP shall only be issued if the massage establishment complies with all requirements of this section and the Code, and the owner obtains and maintains a current and valid city business license. No MEP shall be issued at the same business address that was subject to a prior revocation or suspension within the previous two (2) years.~~

~~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.~~

B. A massage establishment owner shall obtain and continue to maintain a current and valid MEP for each massage establishment under his or her ownership in the city. A MEP is valid for a period of twelve (12) months, unless revoked or suspended, and shall be renewed annually prior to the expiration of the permit, or the permit will expire and a new permit shall be required.

C. Each MEP application and renewal shall include the following.

1. A complete and accurate application on a form prescribed by the director and signed by the applicant. If the applicant does not own the property upon which the massage establishment is located, then the applicant shall provide written acknowledgement signed by the owner of the property indicating the owner is aware that the applicant intends to operate a massage establishment on the owner's property.
2. A complete list of all services to be made available at the massage establishment.

3. Clearly legible copies of the current and valid CAMTC certificate and identification card containing a recent photograph of each massage therapist who will provide massage service, including independent contractors, at the massage establishment.
4. A list of all current employees and independent contractors, and massage therapists, including each such person's home address, age, birth date, gender, height, weight, color of hair, eyes, telephone number, date of employment and termination, if any, and the duties of each employee, which shall match the register of employees identified in section 9662.6.I, except as required by this division.
5. A statement signed by the massage establishment owner stating, under penalty of perjury under the laws of the State of California, that all information in the application is true and correct.
6. The director may require additional information if necessary to determine whether the applicant satisfies all requirements of this division.

D. Each MEP and MEP renewal shall be subject to the conditions outlined in sections 9662.6 and 9662.7 below, and the following requirements.

1. No changes in services offered by the massage establishment shall be made without first submitting to the director a revised schedule of services offered.
2. If, during the term of an MEP, the permittee has any change in information provided on or concerning the original application or MEP renewal application, notification shall be made to the director in writing within ten (10) business days of the change.
3. If a massage therapist's CAMTC certification is suspended or revoked, the massage establishment shall not allow that person to provide massage services, including outcall massages, at, through, or in connection with the massage establishment.
4. The massage establishment shall notify the director immediately upon the establishment's receipt of notice of any disciplinary action taken by the CAMTC regarding any of the establishment's massage therapists, and shall submit a copy of such notice to the director.
5. Any act or omission of anyone providing massage or performing any other service at the massage establishment's location, whether as an employee or an independent contractor, which constitutes a violation of this division or grounds for revocation of a MEP, shall also be deemed to be an act or omission of the permittee, the massage establishment, and/or all of its owner(s).
6. Each massage establishment shall be operated at all times in compliance with all federal, state and local laws, and the requirements of this division.

E. Ground for suspension or revocation. The director may suspend or revoke a MEP based on substantial evidence that any of the following has occurred:

1. The permittee has made any false, misleading or fraudulent statement of material fact in any application, report or record filed with the city.
2. The permittee, or an employee, independent contractor, owner, agent, partner, director, stockholder, or manager of the massage establishment business has failed to comply with any of the requirements or conditions of this division; has allowed or permitted, with or without personal knowledge, the occurrence of criminal activity on the premises of the massage establishment business; has committed a misdemeanor, felony or any violation of this division in the conduct of the massage establishment business; or has failed to abide by any disciplinary action previously imposed by the city in connection with the provision of massage.
3. An individual who is not a certified massage therapist or practitioner, or whose CAMTC certification is suspended or revoked, has provided massage at the massage establishment while such suspension or revocation is in effect.
4. One or more acts prohibited under California Penal Code sections 266, 266a, 266e, 266f, 266g, 266h, 266i, 266j, 315, 316, 318, 647(b), or 653.22, or any successor provisions thereto, have taken place on the premises of the massage establishment, whether or not any criminal prosecution has been pursued or conviction obtained for such acts, and whether they occurred with or without the actual knowledge of the permittee.
5. The permittee has been subject to a permanent injunction against conducting or maintaining a nuisance pursuant to the Code or Sections 11225 through 11235 of the California Penal Code, or any similar provision of law in any jurisdiction outside the State of California.
6. The permittee or anyone acting on behalf of the permittee has refused to permit inspection by the city to verify compliance with all requirements of the MEP and/or this division.

F. Upon determining that grounds for MEP suspension or revocation exist, the director shall provide written notice of the suspension or revocation to the permittee. The notice shall be mailed, postage prepaid, and addressed to the last known address of the permittee, or shall be personally delivered to the permittee, and shall include reasons for the suspension or revocation.

G. Any aggrieved person may appeal the decision of the director approving, denying, revoking or suspending a MEP to the planning commission pursuant to section 9804.5 of the Code.

**9662.4 Business license required.**

A. A separate city business license shall be obtained, pursuant to chapter 8 of title VI of the Code, for each separate massage establishment owned or operated by the same person.

B. No person shall provide outcall massage services within the city without first obtaining a city business license pursuant to chapter 8 of title VI of the Code.

**9662.4 9662.5 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 in connection with and on the premises of a business licensed to provide such professional services:

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 healthcare 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~~ person made exempt pursuant to this subsection A.3., and who is acting within the scope of his or her license.
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 not exempt from the requirements of this division and 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 may not provide massage services without ~~shall be required to obtain~~ a massage therapist or massage practitioner certification from the CAMTC.

**9662.56 Massage establishment ~~Operational operations~~ and facilities requirements.**

Each massage establishment shall comply with the following operations and facilities requirements, which shall be conditions of the MEP:

A. *Hours of operation.* No massage establishment shall provide massage or be kept open for business between the hours of ~~10:30~~ 9:00 p.m. and 7:00 a.m. Clients and visitors shall be excluded from a massage establishment during the foregoing hours.

B. *Signs.* A recognizable and legible sign complying with the requirements of ~~this~~ the Code shall be posted at the main entrance identifying the location as a massage establishment.

C. *CAMTC certificate.* All massage therapists shall prominently display their CAMTC certificate at the massage establishment in a location visible to customers upon entry to the business.

~~C.D.~~ *Certificate CAMTC identification card.* All massage ~~practitioners~~ therapists must maintain on their persons, or on the premises, their CAMTC certificate and ~~or~~ CAMTC identification card ~~for massage~~ with current photograph.

~~D.E.~~ *Lighting.* ~~A~~ Minimum lighting shall be provided in accordance with the building code, and, in addition, at least one (1) artificial light of not less than forty (40) watts shall be provided in each enclosed room or booth where massage services are being performed on a patron.

~~E.F.~~ *Locking of premises.*

1. The doors to any cubicle, room, booth or other area in which massages services are ~~given~~ provided may only be locked when staff is unavailable to assure the security of patrons and massage ~~practitioners~~ therapists 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 if the massage establishment is owned by one person with one or no employees or independent contractors ~~when staff is unavailable to assure the security of the premises.~~

~~F.G.~~ *Ventilation.* Minimum ventilation shall be provided in accordance with the city building code.

~~G.H.~~ *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.I.~~ *Register of employees.* Each massage establishment must maintain a current register of all employees and independent contractors providing massage. The register must contain the

names of all employees, their home addresses, age, birth date, gender, height, weight, color of hair, eyes, telephone number, ~~Soeial 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 (2) 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. An amended copy of the written register shall be provided to the director within five days of hiring of an employee or contracting with an independent contractor and upon termination of services of each massage therapist at the establishment. Attached to the register shall be a statement, signed by the owner upon issuance of the MEP and each time the register is amended as required herein, stating under penalty of perjury under the laws of the State of California that all of the information in the written register is true and correct.

I.J. *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. List of services and price rates. A list of services provided and price rates shall be prominently displayed in a location visible to customers upon entry to the business. Only services identified in the list of services displayed at the massage establishment and submitted as part of the MEP application and renewal shall be provided.

~~K.L.~~ All other applicable ordinances, laws, rules and regulations shall be ~~satisfied~~ obeyed at all times.

**9662.67 Massage establishment Hhealth, safety, and physical hygiene requirements.**

Each massage establishment must comply with the following requirements, as applicable, which shall be conditions of the MEP:

A. ~~Practitioner~~ *Therapist attire and hygiene.* All employees and massage ~~practitioners~~ therapists 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 or required by the massage establishment shall comply with these requirements. There shall be no nudity by employees of the establishment or massage ~~practitioners~~ therapists, and employees and ~~practitioners~~ therapists shall not reveal specified anatomical areas, as defined in this division, while customers or patrons are present. All ~~practitioners~~ therapists 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~~ cloth 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 person ~~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 (4) inches thick or more than four (4) 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 illegal 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 illegal 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~~ therapist may offer to or perform any act of a sexual nature for compensation ~~prostitution as such term is defined in the California Penal Code.~~

**9662.8 Outcall massage operating requirements.**

A. Each massage therapist performing outcall massage shall maintain on his or her person the following:

1. Current and valid CAMTC identification card with recent photograph.
2. Copy of current and valid CAMTC certificate.
3. Copy of current and valid city business license.

B. No outcall massage shall be conducted between the hours of 9:00 p.m. and 7:00 a.m.

C. No outcall massage shall be performed by a massage therapist whose CAMTC certification has been suspended or revoked, while such suspension or revocation is in effect.

D. Each massage therapist performing outcall massage shall comply with the portions of Business and Professions Code § 4609(a) relating to sexual acts, including not allowing certificate holders: to engage in any form of sexual activity on the premises of a massage establishment where massage is provided for compensation; to engage in sexual activity while providing massage services for compensation; to provide massage of the genitals or anal region; or to provide massage of female breasts without the written consent of the person receiving the massage and a referral from a licensed California health care provider.

E. Outcall massage health, safety, and physical hygiene requirements.

1. All massage therapists shall be dressed appropriately in clean, opaque clothing that does not expose specified anatomical areas, as defined in this division, when administering massage. There shall be no nudity by massage therapists while engaging in outcall massage, and therapists shall not reveal specific anatomical areas, as defined in this division, while customers or patrons are present. All therapists shall

- thoroughly wash their hands and arms with hot water and soap before and after each massage treatment.
2. All patrons shall be appropriately draped with a clean, opaque cloth sufficient to cover specified anatomical areas while receiving massage services.
  3. Clean and sanitary towels and linens shall be provided for each patron receiving massage services.
  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. Standard or portable massage tables shall be used with a durable, washable plastic or other waterproof material as a covering. For "Thai," "Shiatsu," or similar forms of massage, which may be provided on a padded mat on the floor, 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 (4) inches thick or more than four (4) 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.

**9662.79 Business name.**

No person possessing a city business license and performing massage or having a MEP 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.~~

**9662.810 Inspections.**

Any and all investigating officials of the city, or eCounty of Los Angeles, 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.

**9662.911 Prohibited advertising practices.**

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

1. 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.
2. Hold ~~oneself~~ one's self out as, 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.

B. Massage establishments and/or massage therapists shall not advertise material depicting the human body or containing language that would suggest that any other services are available other than those described.

**9662.1012 Regulations nonexclusive.**

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

**9662.1113 Conflicts.**

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

**9662.14 Applicability of regulations to existing massage establishments.**

Any massage establishment that was validly permitted as of the effective date of this ordinance to operate a massage establishment must apply for and obtain a MEP within 180 days of the effective date of this ordinance."

**SECTION 5. 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 6. 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 \_\_\_\_\_, \_\_\_\_\_, 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:

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Candice K. Lee  
City Attorney

**Attachment 3**

## ORDINANCE NO. 16-422

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, REVISING REGULATIONS APPLICABLE TO MASSAGE SERVICES, AND AMENDING ARTICLE IX OF THE AGOURA HILLS MUNICIPAL CODE

#### A. Recitals.

(i) The City of Agoura Hills (“City”) has heretofore adopted regulations governing the provision of massage services pursuant to its police power to protect public health, safety, and welfare, in Division 12 of Part 2 of Chapter 6, and Section 9312.2 of Part 2 of Chapter 3, Article IX of the Agoura Hills Municipal Code (“Code”).

(ii) In 2014, the State Legislature passed Assembly Bill 1147 (“AB 1147”), Massage Therapy Act, that amended the California Massage Therapy Act (California Business and Professions Code Section 4600, *et. seq.*), and California Government Code Section 51034, and which went into effect on January 1, 2015. The intent of the Massage Therapy Act is, in part, to vest local governments with broad control over land use in regulating massage establishments; enable consumers and local governments to more easily identify certified massage professionals; provide for consistent statewide certification and oversight of massage professionals; and ensure that local governments impose and enforce only reasonable and necessary fees and regulations.

(iii) There is a need to revise the City’s massage regulations pertaining to massage therapists and practitioners, and massage establishments, consistent with AB 1147, in order to protect the public health, safety, and welfare, comply with state regulations, and balance community needs while minimizing the potential negative secondary effects sometimes associated with such uses.

(iv) The health and safety regulations set forth herein are not intended to provide the exclusive regulation of massage establishments and services. Massage establishments and massage practitioners and therapists must also comply with any and all other applicable local and state regulations, including the California Massage Therapy Act, and business licensing and zoning regulations of the City.

(v) On December 3, 2015, the City Planning Commission held a duly noticed public hearing to consider the proposed ordinance to revise the regulations applicable to massage services (“Ordinance”), 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 recommended that the City Council not adopt the Ordinance as drafted, and provided comments regarding possible changes to the Ordinance.

(vi) On April 13, 2016, the City Council conducted and concluded a duly noticed public hearing concerning the Ordinance as required by law, and received testimony from City staff and all interested parties.

(vii) 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"), the CEQA Guidelines, and the City's Local CEQA Guidelines, City staff has determined that adoption of this Ordinance ("project") 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 the project, since it will 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 CEQA Guidelines. 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 there is no possibility that the project may have a significant effect on the environment.

**SECTION 3.** Paragraph L of Section 9312.3 (Special conditions) of Part 2 (Commercial Use Tables) of Chapter 3 (Commercial Districts) of Article IX of the Code is hereby amended to read:

"L. Permitted subject to the provisions of section 9662, et seq., and provided the following condition is met: no more than two (2) massage establishments are allowed within a 1,000-foot radius of one another."

**SECTION 4.** Division 12 (Massage Establishments and Practitioners) of Part 2 (Special Regulations) of Chapter 6 (General Provisions) or Article IX (Zoning) of the Code, beginning at Section 9662, is hereby amended to read as follows:

**"DIVISION 12. MASSAGE ESTABLISHMENTS AND MASSAGE PRACTITIONERS AND THERAPISTS**

**9662. Purpose.**

The purpose and intent of this division is to establish comprehensive regulations governing the provision of massage services ~~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.**

[The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

**CAMTC** means the California Massage Therapy Council created under Chapter 10.5 (commencing with Section 4600) of Division 2 of the California 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 acupressure, 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~~ therapist** 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," "massage practitioner," or any other terms used within the massage industry that refer to one who performs massage, are included within this definition. ~~Massage practitioner~~ therapist also includes any person to whom a current and valid "massage therapist" or "massage practitioner" certificate has been issued by the CAMTC pursuant to ~~sSections~~ Sections 4601 and 4604 of the California Business and Professions Code, or any successor provision thereto, and includes massage practitioner certificates issued prior to January 1, 2015, which may be renewed by the CAMTC.

**Outcall massage** means any massage performed by a ~~massage practitioner~~ therapist outside the massage establishment where the ~~massage practitioner~~ therapist 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 perform massage for compensation of any kind, or otherwise act as a massage practitioner therapist in the city, including a therapist providing massage at a massage establishment or performing outcall massage, unless such person possesses holds and maintains a current, valid massage therapist or massage practitioner certification issued by the CAMTC, and provides massage services consistent with the requirements of the California Business and Professions Code. All certified massage practitioners and massage therapists shall annually 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.~~ own or operate a massage establishment within the city unless all persons providing massage at or on behalf of the massage establishment have a current and valid CAMTC certificate.

**9662.3 Massage establishment permit ~~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~~ massage establishment permit (MEP) for the establishment, in accordance with the requirements of this division, 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~~ MEP shall be obtained for each separate establishment owned or operated by such person. Each person having any percentage of ownership interest in a massage establishment for which a MEP is applied for must comply with the requirements of this section. A MEP shall only be issued if the massage establishment complies with all requirements of this section and the Code, and the owner obtains and maintains a current and valid city business license. No MEP shall be issued at the same business address that was subject to a prior revocation or suspension within the previous two (2) years.

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.~~

B. A massage establishment owner shall obtain and continue to maintain a current and valid MEP for each massage establishment under his or her ownership in the city. A MEP is valid for a period of twelve (12) months, unless revoked or suspended, and shall be renewed annually prior to the expiration of the permit, or the permit will expire and a new permit shall be required.

C. Each MEP application and renewal shall include the following.

1. A complete and accurate application on a form prescribed by the director and signed by the applicant. If the applicant does not own the property upon which the massage establishment is located, then the applicant shall provide written acknowledgement signed by the owner of the property indicating the owner is aware that the applicant intends to operate a massage establishment on the owner's property.
2. A complete list of all services to be made available at the massage establishment.
3. Clearly legible copies of the current and valid CAMTC certificate and identification card containing a recent photograph of each massage therapist who will provide massage service, including independent contractors, at the massage establishment.
4. A list of all current employees and independent contractors performing massage, including each such person's telephone number, date of employment, and their duties, which shall match the register of employees identified in section 9662.6.I, except as required by this division.
5. A statement signed by the massage establishment owner stating, under penalty of perjury under the laws of the State of California, that all information in the application is true and correct.
6. The director may require additional information if necessary to determine whether the applicant satisfies all requirements of this division.

D. Each MEP and MEP renewal shall be subject to the conditions outlined in sections 9662.6 and 9662.7 below, and the following requirements.

1. No changes in services offered by the massage establishment shall be made without submitting the changes in writing and a revised schedule of services offered to the director within ten (10) business days of the change.
2. If, during the term of an MEP, the permittee has any change in information provided on or concerning the original application or MEP renewal application, notification shall be made to the director in writing within ten (10) business days of the change.

3. If a massage therapist's CAMTC certification is suspended or revoked, the massage establishment shall not allow that person to provide massage services, including outcall massages, at, through, or in connection with the massage establishment.
4. The massage establishment shall notify the director immediately upon the establishment's receipt of notice of any disciplinary action taken by the CAMTC regarding any of the establishment's massage therapists, and shall submit a copy of such notice to the director.
5. Any act or omission of anyone providing massage or performing any other service at the massage establishment's location, whether as an employee or an independent contractor, which constitutes a violation of this division or grounds for revocation of a MEP, shall also be deemed to be an act or omission of the permittee, the massage establishment, and/or all of its owner(s).
6. Each massage establishment shall be operated at all times in compliance with all federal, state and local laws, and the requirements of this division.

E. Ground for suspension or revocation. The director may suspend or revoke a MEP based on substantial evidence that any of the following has occurred:

1. The permittee has made any false, misleading or fraudulent statement of material fact in any application, report or record filed with the city.
2. The permittee, or an employee, independent contractor, owner, agent, partner, director, stockholder, or manager of the massage establishment business has failed to comply with any of the requirements or conditions of this division; has allowed or permitted, with or without personal knowledge, the occurrence of criminal activity on the premises of the massage establishment business; has committed a misdemeanor, felony or any violation of this division in the conduct of the massage establishment business; or has failed to abide by any disciplinary action previously imposed by the city in connection with the provision of massage.
3. An individual who is not a certified massage therapist or practitioner, or whose CAMTC certification is suspended or revoked, has provided massage at the massage establishment while such suspension or revocation is in effect.
4. One or more acts prohibited under California Penal Code sections 266, 266a, 266e, 266f, 266g, 266h, 266i, 266j, 315, 316, 318, 647(b), or 653.22, or any successor provisions thereto, have taken place on the premises of the massage establishment, whether or not any criminal prosecution has been pursued or conviction obtained for such acts, and whether they occurred with or without the actual knowledge of the permittee.

5. The permittee has been subject to a permanent injunction against conducting or maintaining a nuisance pursuant to the Code or Sections 11225 through 11235 of the California Penal Code, or any similar provision of law in any jurisdiction outside the State of California.

6. The permittee or anyone acting on behalf of the permittee has refused to permit inspection by the city to verify compliance with all requirements of the MEP and/or this division.

F. Upon determining that grounds for MEP suspension or revocation exist, the director shall provide written notice of the suspension or revocation to the permittee. The notice shall be mailed, postage prepaid, and addressed to the last known address of the permittee, or shall be personally delivered to the permittee, and shall include reasons for the suspension or revocation.

G. Any aggrieved person may appeal the decision of the director approving, denying, revoking or suspending a MEP to the planning commission pursuant to section 9804.5 of the Code.

**9662.4 Business license required.**

A. A separate city business license shall be obtained, pursuant to chapter 8 of title VI of the Code, for each separate massage establishment owned or operated by the same person.

B. No person shall provide outcall massage services within the city without first obtaining a city business license pursuant to chapter 8 of title VI of the Code.

**9662.45 Exceptions.**

A. Except as provided in subsection B., or as otherwise provided by law, 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 in connection with and on the premises of a business licensed to provide such professional services:

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 healthcare 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, including trainees and interns under

supervision of such a licensee, 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~~ person made exempt pursuant to this subsection A.3., and who is acting within the scope of his or her license.

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 not exempt from the requirements of this division and 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 may not provide massage services without shall be required to obtain a massage therapist or massage practitioner certification from the CAMTC.

**9662.56 Massage establishment Operational operations and facilities requirements.**

Each massage establishment shall comply with the following operations and facilities requirements, which shall be conditions of the MEP:

A. *Hours of operation.* No massage establishment shall provide massage or be kept open for business between the hours of ~~10:30-9:00~~ p.m. and 7:00 a.m. Clients and visitors shall be excluded from a massage establishment during the foregoing hours.

B. *Signs.* A recognizable and legible sign complying with the requirements of ~~this~~ the Code shall be posted at the main entrance identifying the location as a massage establishment.

C. *CAMTC certificate.* At the massage establishment, each massage therapist shall display his or her original certificate wherever he or she provides massage for compensation.

~~G.D.~~ Certificate CAMTC identification card. All massage practitioners/therapists must maintain on their persons, or on the premises, their CAMTC certificate and/or CAMTC identification card for massage with current photograph.

~~D.E.~~ Lighting. A ~~m~~Minimum lighting shall be provided in accordance with the building code, and, in addition, at least one (1) artificial light of not less than forty (40) watts (450 lumens), with a dimmer function allowed, shall be provided in each enclosed room or booth where massage services are being performed on a patron.

~~E.F.~~ Locking of premises.

1. The doors to any cubicle, room, booth or other area in which massages services are given/provided may only be locked when staff is unavailable to assure the security of patrons and massage practitioners/therapists 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 if the massage establishment is owned by one person with one or no employees or independent contractors~~when staff is unavailable to assure the security of the premises.~~

~~F.G.~~ Ventilation. Minimum ventilation shall be provided in accordance with the city building code.

~~G.H.~~ Recording of activities prohibited. No room or part of the building or part thereof where massage is being conducted, and no restrooms or changing rooms, 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.I.~~ Register of employees. Each massage establishment must maintain a current register of all employees and independent contractors providing massage. 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 their duties of each employee. All such information must be maintained in the register for a period of two (2) 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. An amended copy of the written register shall be provided to the director within ten (10) days of hiring of an employee or contracting with an independent contractor and upon termination of services of each massage therapist at the establishment. Attached to the register shall be a statement, signed by the owner upon issuance of the MEP and each time the register is amended as required herein, stating under penalty of perjury under the laws of the State of California that all of the information in the written register is true and correct.

~~I.J.~~ *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. List of services and price rates. A list of services provided and price rates shall be prominently displayed in a location visible to customers upon entry to the business. Only services identified in the list of services displayed at the massage establishment and submitted as part of the MEP application and renewal shall be provided.

~~K.L.~~ All other applicable ordinances, laws, rules and regulations shall be satisfied obeyed at all times.

#### **9662.67 Massage establishment Health, safety, and physical hygiene requirements.**

Each massage establishment must comply with the following requirements, as applicable, which shall be conditions of the MEP:

A. ~~Practitioner~~ Therapist attire and hygiene. All employees and massage ~~practitioners~~ therapists 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 or required by the massage establishment shall comply with these requirements. There shall be no nudity by employees of the establishment or massage ~~practitioners~~ therapists, and employees and ~~practitioners~~ therapists shall not reveal specified anatomical areas, as defined in this division, while customers or patrons are present. All ~~practitioners~~ therapists 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~~ cloth 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~~ available for each person 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~~ Enclosures shall be provided for the separate 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 (4) inches thick or more than four (4) 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 illegal 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 illegal 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 ~~therapist~~ may offer to or perform any act of a sexual nature for compensation ~~prostitution as such term is defined in the California Penal Code.~~

**9662.8 Outcall massage operating requirements.**

A. Each massage therapist performing outcall massage shall maintain on his or her person the following:

1. Current and valid CAMTC identification card with recent photograph.
2. Copy of current and valid CAMTC certificate.
3. Copy of current and valid city business license.

B. No outcall massage shall be conducted between the hours of 9:00 p.m. and 7:00 a.m.

C. No outcall massage shall be performed by a massage therapist whose CAMTC certification has been suspended or revoked, while such suspension or revocation is in effect.

D. Each massage therapist performing outcall massage shall comply with the portions of Business and Professions Code § 4609(a) relating to sexual acts, including not allowing certificate holders: to engage in any form of sexual activity on the premises of a massage establishment where massage is provided for compensation; to engage in sexual activity while providing massage services for compensation; to provide massage of the genitals or anal region; or to provide massage of female breasts without the written consent of the person receiving the massage and a referral from a licensed California health care provider.

E. Outcall massage health, safety, and physical hygiene requirements.

1. All massage therapists shall be dressed appropriately in clean, opaque clothing that does not expose specified anatomical areas, as defined in this division, when administering massage. There shall be no nudity by massage

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

2. All patrons shall be appropriately draped with a clean, opaque cloth sufficient to cover specified anatomical areas while receiving massage services.
3. Clean and sanitary towels and linens shall be provided for each patron receiving massage services.
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. Standard or portable massage tables shall be used with a durable, washable plastic or other waterproof material as a covering. For "Thai," "Shiatsu," or similar forms of massage, which may be provided on a padded mat on the floor, 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 (4) inches thick or more than four (4) 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.

**9662.79 Business name.**

No person possessing a city business license and performing massage or having a MEP 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.

**9662.810 Inspections.**

Any and all investigating officials of the city, or County of Los Angeles, 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.

**9662.911 Prohibited advertising practices.**

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

1. 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.
2. Hold ~~oneself~~ one's self out as, 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.

B. ~~Massage establishments and/or massage therapists shall not advertise material depicting the human body, or containing language, either of which that would suggest that any other services are available other than those described in the schedule of services.~~

**9662.4012 Regulations nonexclusive.**

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

**9662.4113 Conflicts.**

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

**9662.14 Applicability of regulations to existing massage establishments.**

Any massage establishment that was validly permitted as of the effective date of this ordinance to operate a massage establishment must apply for and obtain a MEP within 180 days of the effective date of this ordinance."

**SECTION 5. 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 6. 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 \_\_\_\_\_, 2016, by the following vote to wit:

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

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Harry Schwarz  
Mayor

ATTEST:

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Kimberly M. Rodrigues, MMC  
City Clerk

APPROVED AS TO FORM:

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Candice K. Lee  
City Attorney