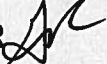



REPORT TO CITY COUNCIL

DATE: APRIL 27, 2016

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER 

BY: NATHAN HAMBURGER, ASSISTANT CITY MANAGER
ALLISON COOK, ASSISTANT PLANNING DIRECTOR 

SUBJECT: ADOPTION 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)

At the April 13, 2016 City Council meeting, the Council introduced, read by title only, and waived further reading 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 on a 4-0-1 vote (Mayor Schwarz was absent).

The purpose of the Ordinance is to update massage establishment, practitioner and therapist regulations to be consistent with State Assembly Bill 1147 (2014); continue to protect the public health, safety and welfare; and balance 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.

RECOMMENDATION

Staff recommends the City Council adopt Ordinance No. 16-422, Revising Regulations Applicable to Massage Services, and Amending Article IX of the Agoura Hills Municipal Code.

Attachment: Ordinance No. 16-422

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 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 9662.6.1, 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 Message 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 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 massage services are given ~~are 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 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, 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 27th day of April, 2016, by the following vote to wit:

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

Denis Weber, Mayor Pro Tem

ATTEST:

Nathan Hamburger, Assistant City Manager

APPROVED AS TO FORM:

Candice K. Lee
City Attorney