

ORDINANCE NO. 1246

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SIMI VALLEY REPLACING TITLE 5, CHAPTER 15 OF THE SIMI VALLEY MUNICIPAL CODE REGULATING MASSAGE ESTABLISHMENTS, OFF-PREMISES MASSAGE BUSINESSES, AND MASSAGE PRACTITIONERS AND DETERMINING THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the California State Legislature, through AB 1147 in 2014, has returned regulatory authority over the business of massage to the local level and allows the City to study and consider measures to ensure the City's Zoning Ordinance is consistent with the City's General Plan's goals to protect the public health, safety and welfare, community character, and quality of life; and

WHEREAS, although massage establishments generally have a legal status similar to other professional services, such as medical, dental, and law offices, the City of Simi Valley, similar to and in accord with the findings made by other cities in the county such as the City of Ventura, finds that massage businesses frequently do not conduct themselves like other professional service businesses, despite certification by California Massage Therapy Council (CAMTC) of their employees; and

WHEREAS, on January 12, 2015, the City Council adopted Ordinance No. 1236 establishing a moratorium as an urgency ordinance on the issuance of any new permit, license, approval, or entitlement relating to new massage establishments or massage therapist permits for a period of 45 days; and

WHEREAS, on February 23, 2015, the City Council extended the moratorium for an additional 10 months and 15 days through the adoption of Ordinance No. 1238 in order to continue to research best practices to regulate the business of massage through business regulation, conditions of operation, and potential land use related restrictions; and

WHEREAS, since City actions in January 2015 in response to AB1147, the Simi Valley Chief of Police continues to report to the City Council that law enforcement and regulatory officials had reason to believe in, and have received an increase in reports of, illicit activity and operations that may engage in prostitution or other unlawful activity, and have cited therapists for practicing without state licenses and owners for using unlicensed practitioners; and

WHEREAS, since the adoption of the moratorium, City staff continues to research and analyze ordinances in other municipalities; researched State legislation and Business and Professions Code that may impact massage establishments; researched best practices to address illicit activities through land use and conditions of operation; and is considering the effects and implementation of the provisions of AB 1147 and its consistency with the General Plan and Zoning Ordinances; and

WHEREAS, the City Council desires to enact the regulatory permit scheme set forth in this ordinance for existing massage establishments and off-premise massage businesses, and to further apply this ordinance to new businesses but only at such time as the City Council may modify or remove the existing moratorium in place for new massage establishments and off-premise massage businesses while staff continues to study the matter for potential land use and other regulation, under both Government Code 65858, or until such time as the moratorium otherwise expires; and

WHEREAS, the City of Simi Valley wishes to regulate the business of massage as set forth in this ordinance for the benefit of the public health, safety and welfare; and

WHEREAS, this ordinance is exempt from review under the California Environmental Quality Act (CEQA; California Public Resources Code Section 2100 et seq.) and CEQA regulations (Title 14, California Code of Regulations Section 15000, et seq.) because this ordinance is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment (Section 15061(b)(3)).

THE CITY COUNCIL OF THE CITY OF SIMI VALLEY DOES ORDAIN AS FOLLOWS:

SECTION 1.

Findings. The recitals set forth above are hereby adopted as findings. In addition, the Simi Valley City Council finds, determines, and declares as follows:

A. At the end of 2014, the City had 29 licensed establishments and 84 licensed practitioners. The Police Department reports that the number of establishments advertising in a sexually explicit manner and reviewed for sexual activities on-line and in adult entertainment media avenues has dramatically increased, strongly suggesting an increase in illicit activity. Law enforcement staff continues to receive an increasing list of complaints of suspected illicit activity occurring at massage establishments, continue to cite practitioners and establishment owners, and therefore, require a higher level of scrutiny and Police Department support and enforcement to ensure compliance with City and state laws.

B. The City Council recognizes that the oversaturation of massage establishments changes the character of a neighborhood, causes blight, and concentration of land uses and associated illicit activities impacts the quality of life, health, and safety for residents of the City of Simi Valley and continues to study these effects.

C. The City Council finds that this is a matter of City-wide importance and does not direct these actions toward any particular property, owner, or proposed business and finds that the proposed measures to allow existing establishments and business owners to become fully licensed and to allow for new and existing practitioners to register and obtain identification cards is progress toward reducing the potential effects on the public health, safety, and welfare and reflects the business supportive climate of Simi Valley.

D. The City Council directs staff to continue to study modifications to the City's land use and regulatory ordinances within the framework provided in AB 1147, including CUPs, saturation, concentration, zoning, and health and safety, relating to the effects of massage establishments, and to develop methods to reduce the negative secondary land use effects created by the number, location and illegal uses of additional massage establishments. Such studies should also ensure consistency between State Law and the General Plan.

SECTION 2.

A. Title 5, Chapter 15 ("Massage Establishments") of the Simi Valley Municipal Code is hereby repealed in its entirety, and replaced with Exhibit A, as attached hereto.

B. Urgency Ordinance No. 1236 and the moratorium thereunder as extended by Ordinance No. 1238 remain in effect pursuant to California Government Code Section 65858, until modified or repealed by the City Council, or until such moratorium otherwise naturally expires. The permitting functions, time periods, permit requirements, enforcement, and other activities, requirements, and functions set forth in Exhibit A (collectively, "Permit Enforcement") will not begin unless and until the City Council modifies or eliminates the moratorium, or until such moratorium may naturally expire.

C. The violation of any of the provisions of this ordinance shall constitute a misdemeanor, and each and every day such a violation exists shall constitute a separate and distinct violation. Specific penalties for violations of the Municipal Code sections in Exhibit A are as set forth in Exhibit A.

D. Capitalized terms not defined in this ordinance are as defined in Exhibit A.

SECTION 3.

A. "Existing Businesses" are defined for purposes of this ordinance as businesses operating a Massage Establishment or an Off-premises Massage Business that are already conducting business and in possession of all previously required licenses and/or permits for such business in the City of Simi Valley on the effective date of this ordinance.

B. Unless the City Council provides otherwise, Permit Enforcement for Existing Businesses will begin under the provisions of Exhibit A at such time as the City Council may choose to modify or repeal the moratorium to allow Permit Enforcement to proceed for Existing Businesses, or at such time the moratorium otherwise expires. Except for Existing Businesses, no new permits, licenses, tax certificates, approvals or entitlements shall be issued for the establishment or expansion of Massage Establishments or Off-Premises Massage Businesses, including Sole Proprietors, unless the City Council modifies or repeals the moratorium accordingly, or unless the moratorium shall otherwise expire. Change of ownership or transfers of license are considered new Massage Establishments or new Off-Premise Massage Businesses and remain under the moratorium and will not be granted.

C. Unless the City Council provides otherwise, at such time as the City Council may choose to modify or repeal the moratorium, or at such time as the moratorium otherwise expires, Existing Businesses must apply for a Permit within ninety (90) days of such modification, repeal, or expiration of the moratorium.

D. Unless the City Council provides otherwise, at such time as the City Council may choose to modify or repeal the moratorium, or at such time as the moratorium otherwise expires, all Massage Practitioners that intend to provide Massage services as an employee or independent contractor within the City of Simi Valley must register and comply with the requirements set forth in Section 5-15.06(b) and 5-15.07 of Exhibit A within ninety (90) days of such modification, repeal or expiration of the moratorium.

SECTION 4. Severability. If any provision of this ordinance is declared invalid by a court of competent jurisdiction, adjudicated to a final determination, the City Council finds that said voided part is severable, that the City Council would have adopted the remainder of this Ordinance without the severed and voided part, and that the remainder of this ordinance shall remain in full force and effect.

SECTION 5. Incompatible Provisions. To the extent any provision of this ordinance is incompatible with or at variance with any prior adopted ordinance or resolution, the provision of this Ordinance shall take precedence.

SECTION 6. The City Clerk shall cause this Ordinance or a summary hereof to be published in accordance with Section 36933 of the California Government Code, shall certify to the adoption of this ordinance and shall cause a certified copy of this ordinance, together with proof of publication, to be filed in the Office of the Clerk of this City.

SECTION 7. This ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

PASSED AND ADOPTED this 31st day of August 2015.

Attest:

/s/
Ky Spangler, Deputy Director/City Clerk

/s/
Robert O. Huber, Mayor of the City of Simi Valley, California

Approved as to Form:

Approved as to Content:

/s/
Lonnie J. Eldridge, City Attorney

/s/
Eric J. Levitt, City Manager

/s/
Peter Lyons, Director
Department of Environmental Services

EXHIBIT A

Chapter 15

MESSAGE ESTABLISHMENTS

5-15.01 - Findings and purpose.

The City Council finds and declares as follows:

- (a) The City is authorized, by virtue of the State Constitution and Section 51030 et seq. of the Government Code, to regulate the qualifications and licensing of massage service providers and massage establishments, and hereby does so for the benefit of the public health, safety, and welfare.
- (b) The California State Legislature has implemented uniform statewide regulations pertaining to massage therapy and massage establishments (enacted by AB 1147 in 2014, superceding SB 731 in 2008 and AB 619 in 2011), now codified in Chapter 10.5 of Division 2 of the California Business and Professions Code at Section 4600 et seq. (the "Massage Therapy Act," or "MTA"), which created a statewide system for issuing massage worker permits, which generally preempts local regulation of the practice and technique of massage. The statewide permitting system is administered by the California Massage Therapy Council ("CAMTC").
- (c) As to massage establishments, the 2014 changes to the MTA allow the application of certain local land use, zoning, business licensing and operational regulations. Additionally, local jurisdictions can establish reasonable health and safety requirements for massage establishments not in conflict with the MTA. To enable the City to carry out the local regulation and review of massage establishments, the City must enact and codify massage establishment regulations in the Simi Valley Municipal Code.
- (d) There is a continued need for local regulations because there is significant risk of injury to massage patrons by improperly trained or educated massage service providers, and the City has a legitimate interest in providing reasonable safeguards against injury and economic loss to such massage patrons. In addition, the City wishes to promote the ethical practice of massage therapy as an important healing art, and to prevent and discourage the misuse of massage therapy as a front for prostitution and other illicit activities in violation of the law, including, but not limited to, subdivisions (a) or (b) of Section 647 of the California Penal Code. Local regulation is also necessary to prevent adverse secondary effects in the community such as blight, disease, litter, the deterioration of neighborhoods and commercial districts, and other secondary effects.
- (e) The adoption of qualification standards for massage service providers by the CAMTC certification program established under the MTA and the enhancement of the City's reasonable regulations on the operation of massage establishments and

the conduct of massage service providers will serve to reduce the risk of potentially injurious and illegal activity.

- (f) The provisions of this chapter are not intended to be exclusive, and compliance with this Title 5, Chapter 15 of the Simi Valley Municipal Code will not excuse noncompliance with any state or local laws or regulations that are uniformly applied to other professional or personal service businesses including zoning regulations, building, fire, electrical and plumbing codes, and health and safety laws and regulations applicable to professional or personal service businesses.
- (g) The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

5-15.02 - Definitions.

For purposes of this chapter, unless the context clearly requires a different meaning, the definitions and provisions contained in this section shall govern the construction, meaning, and application of words and phrases used in this chapter.

- (a) "Acupressure" is based on a theory similar to acupuncture except that it stimulates acupuncture points by the application of pressure rather than needling. Persons practicing acupressure under the direction of a licensed State of California Department of Consumer Affairs licensed acupuncturist must obtain CAMTC certification.
- (b) "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electro acupuncture, cupping, and the use of hot or burning substances on or near the skin (moxibustion).
- (c) "Adult Oriented Merchandise" means any sexually-oriented implements, paraphernalia, or novelty items, such as but not limited to: condoms and sexually-oriented items that are designed or marketed primarily for the stimulation of human genital organs.
- (d) "CAMTC" means the California Massage Therapy Council created under the Massage Therapy Act.
- (e) "CAMTC Certificate" means a current and valid certificate issued by the CAMTC to a massage practitioner or a massage therapist.
- (f) "Certified Massage Practitioner" or "CMP" means a person who is currently certified as a massage practitioner by the CAMTC and who administers massage for compensation pursuant to Business and Professions Code Section 4600 et seq.
- (g) "Certified Massage Therapist" or "CMT" means a person who is currently certified as a massage therapist by the CAMTC and who administers massage for compensation pursuant to Business and Professions Code Section 4600 et seq.
- (h) "City" means the City of Simi Valley.

- (i) "Conditionally Certified Massage Practitioner (CCMP)" means a person who is completing schooling and working toward their CMP or CMT massage license issued by the CAMTC under the allowances by CAMTC pursuant to Business and Professions Code Section 4600 et seq.
- (j) "Employee" means any and all persons who render any service, with or without compensation, for the Owner, Operator, RMO, manager, or agent thereof of a Massage Establishment or Off-premises Massage Business. For purposes of this chapter the term "employee" shall include independent contractors unless otherwise specified in this chapter.
- (k) "Managing Employee" means any employee of a Massage Establishment who has been designated by the Massage Establishment Permittee to manage the business.
- (l) "Massage" means any method of scientific manipulation of the soft tissues, any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus, or other appliances or devices, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparations, also known as "body work" and includes Acupressure. Massage as used in this chapter does not include Acupuncture.
- (m) "Massage Establishment" means any fixed location where Massage is performed for compensation, and includes the business operations of such fixed location. This also includes those fixed business locations of a business in which Massage is provided, dispatched, or organized on an out-call basis to different locations by an owner, employee, or independent contractor associated with the business.
- (n) "Massage Establishment Permit" means the permit issued by the Chief of Police pursuant to this chapter for the operation of a Massage Establishment.
- (o) "Massage Practitioner" means a Massage practitioner or therapist who provides Massage.
- (p) "Off-premises Massage" or "Out-call Massage" means the performance of Massage at a location designated by the patron and not at a fixed location such as a Massage Establishment, medical practitioner's office, or other establishment.
- (q) "Off-premises Massage Business" means any CAMTC certified massage practitioner providing Off-premises Massage or Out-call Massage for compensation as an independent contractor or business owner, on an off-premises or out-call basis.
- (r) "Off-premises Massage Permit" means the permit issued by the Chief of Police pursuant to this chapter for an Off-premises Massage Business.
- (s) "Operator" means any person who supervises, manages, directs, organizes, controls, or in any other way is responsible for or in charge of the daily operation, conduct, or activities of a Massage Establishment.
- (t) "Owner" means a Sole Proprietor that owns, a general partner of a partnership or limited liability company or partnership that owns, a corporation that owns, or each individual person who otherwise holds a five (5%) percent or greater ownership interest in a Massage Establishment or Off-premises Massage Business.

- (u) "Permit" means a Massage Establishment Permit or Off-premises Massage Permit.
- (v) "Permittee" means a Person who holds a Massage Establishment Permit or Off-premises Massage Permit.
- (w) "Person" means and includes person(s), firms, corporations, partnerships, associations, limited liability companies or partnerships, or other forms of business organizations or groups.
- (x) "Property Owner" means the legal owner(s) of a development or property who may serve as a lessor to a tenant which is a Massage Establishment or Off-premises Massage Business.
- (y) "Provisional Massage Establishment Permit" or "Provisional Off-premises Massage Permit" means the provisional permit provided by the City to an applicant for a Massage Establishment Permit or an Off-premises Massage Permit who is already conducting business and in possession of all previously required licenses and/or permits for such business in the City of Simi Valley on the effective date of the ordinance implementing this chapter.
- (z) "Registered School" means a school, approved by the CAMTC, that provides training and curriculum in Massage and related subjects.
- (aa) "Responsible Managing Officer" or "RMO" is the individual person designated by a partnership, limited liability company, limited liability partnership, corporation, association, or other business who must sign all forms and meet all requirements of a Permittee under this chapter.
- (bb) "Sole Proprietor" means a Massage Establishment or Off-premises Massage Business owner where the owner owns 100 percent of the business, is the only person who provides Massage services for compensation from that business pursuant to a valid and active certificate issued in accordance with this chapter and CAMTC, and has no other employees or independent contractors.
- (cc) "Specified Anatomical Areas" means and includes any of the following human anatomical areas: genitals, pubic regions, anuses, or female breasts below a point immediately above the top of the areola, except as permitted under the Business and Professions Code 4609(a)(1)(f) and (E)(1) including written consent of the person receiving the massage and a referral from a licensed California health care provider.
- (dd) "Specified Criminal Offense" means within ten (10) years of the date of the filing of an application for approval a person has:
 - (1) Pleaded guilty or nolo contendere to, or has been convicted in a court of competent jurisdiction of a misdemeanor or felony crime involving sexual misconduct, including but not limited to (a) Chapter 1 of Title 9 of the Penal Code (Sections 261-269) relating to sexual crimes; (b) Chapter 8 of Title 9 of the Penal Code (Sections 314-318.6) relating to indecent exposure, obscenity, and disorderly establishments; or (c) Penal Code 647(a) or (b) relating to prostitution; or
 - (2) Pleaded guilty or nolo contendere to, or has been convicted in a court of competent jurisdiction of any similar offenses under the criminal code or penal code of this state or any other states or countries;

- (3) Permitted, through an act or omission or commission, an employee or agent to engage in any type of moral turpitude or sexual misconduct offense listed in subsections (1) or (2) above. The conduct of the employee or agent, if such resulted in a conviction or a plea of guilty or nolo contendere will be considered imputed to the principal; or
 - (4) Permittee is required to register pursuant to the Sex Offender Registration Act (Chapter 5.5 commencing with Section 290 of Title 9 of Part 1 of the Penal Code), or is required to register as a sex offender in another state.
- (ee) "Specified Sexual Activities" means and includes any of the following:
- (1) Fondling or other erotic touching of Specified Anatomical Areas;
 - (2) Sex acts including, without limitation, intercourse, oral copulation, or sodomy;
 - (3) Masturbation;
 - (4) Sexual stimulation by any inanimate object; or
 - (5) Excretory functions as part of or in connection with any Specified Sexual Activity listed in this definition.

5-15.03 - Administration.

- (a) The Chief of Police is authorized to administer this chapter and to promulgate administrative policies and procedures required to implement the regulations set forth in this chapter. The Chief of Police is authorized to charge reasonable and necessary costs for the application, review, approval, and inspection of Massage Establishments, Off-premises Massage Businesses, Massage Establishment Owners, RMOs, Operators, and Managing Employees, and for all other activities authorized by this chapter.
- (b) Fees. The application, processing, background investigation and inspection fees for establishments and businesses, applicable at time of application or other applicable activity by the City under this chapter, are as provided in any currently adopted resolution of the City Council providing for such fees in effect at the time of an application, renewal, inspection or any other relevant activity under this chapter.

5-15.04 - CAMTC certifications required.

- (a) Massage Establishment. It is unlawful for any person to own, operate, or maintain a Massage Establishment unless all Massage Practitioners employed by the Massage Establishment or working in the Massage Establishment as an independent contractor, Sole Proprietor Massage Practitioner or otherwise, hold a current and valid certification from the CAMTC as a massage practitioner or massage therapist, or a current, valid certificate or license from the Department of Consumer Affairs to practice Massage. Other personal service businesses (a business such as a day spa, salon, beauty parlor or barber shop, or businesses relating to Personal Services as defined in Section 9-80.020 of the Municipal Code) or medical offices or clinics providing any Massage services by Massage Practitioners are additionally considered Massage Establishments, and subject to all regulations contained herein

unless specifically exempted under the maximum percentage of Massage services set forth in Section 5-15.10(c) or as elsewhere specifically exempted under this chapter.

- (b) **Massage Practitioner.** It is unlawful for any person to engage in, or carry on the business or activities of a Massage Practitioner, without a current and valid certification from the CAMTC as a Certified Massage Practitioner or Certified Massage Therapist.
- (c) **Off-premises Massage Business.** It is unlawful for any person to own, operate, or maintain an Off-premises Massage Business in the City unless all Massage Practitioners employed by the Off-premises Massage Business hold a current and valid certification from the CAMTC as a Certified Massage Practitioner or Certified Massage Therapist, including Sole Proprietors.
- (d) It is unlawful for (1) Owners of; (2) Managing Employees of; or (3) Operators of any Massage Establishments or Off-premises Massage Businesses, to allow any person to perform massage that is not a Certified Massage Practitioner or Certified Massage Therapist holding a current and valid certificate from CAMTC.

5-15.05 - Massage Establishment and Off-premises Massage Business Owner background check and approval required prior to issuance of a Business Tax Certificate, Zoning Clearance, Massage Establishment Permit, or Off-premises Massage Business permit.

- (a) Any person, association, partnership, or corporation desiring to operate a Massage Establishment or operate an Off-premises Massage Business, that will own or does own five (5%) percent or more of the Massage Establishment or Off-premises Massage Business, must make an application to the Chief of Police for an investigation of the applicant's background and history. A nonrefundable fee, in an amount set by resolution, must accompany the submission of each application to defray the cost of investigation, inspection, and enforcement of this chapter. Every two years, a nonrefundable renewal fee will also be charged to defray associated costs of investigation, inspection, and enforcement due to Permit renewal. Applicants are required to make payment to the Department of Justice for fingerprinting services as required by this Chapter. A Massage Establishment Permit or Off-premises Massage Permit does not authorize the Permittee to provide Massage services, and it is unlawful to do so without valid CAMTC certification. A separate Permit shall be required for each establishment, and new applications for any change in ownership.
- (b) Each applicant for a background check must submit the following information for review by City-approved investigative firms:
 - (1) The full true name and any other names used presently or in the past by the applicant, including those under which the business will be conducted.
 - (2) The present physical address, telephone number, and primary email addresses (if such email addresses are possessed) of the business and of the applicant. The applicant consents to service of all required notices under this chapter to the physical address of the business, which shall be the service address.

- (3) California driver's license or California Department of Motor Vehicles issued Identification Card and social security number(s).
- (4) The proposed business name (DBA) and present or proposed address of the Massage Establishment, Off-premises Massage Business, or place the Sole Proprietor is based, and any fixed locations where Massage services are practiced more than 5% of the time and a statement whether the applicant intends to personally provide Massage services at the business. The applicant for a Massage Establishment Permit or Off-premises Massage Permit is required to obtain a certificate from CAMTC if that person intends to provide Massage services.
- (5) Each residence and business address of the applicant for the ten (10) years immediately preceding the date of the application, and the inclusive dates for such addresses.
- (6) Date of birth and written proof that the applicant is at least eighteen (18) years of age.
- (7) Applicant's height, weight, and color of eyes and hair.
- (8) Two (2) identical photographs of the applicant at least two (2) inches by two (2) inches taken within four (4) months preceding the date of the application.
- (9) Applicant's business, occupation, and employment history for the ten (10) years immediately preceding the date of application.
- (10) The business license or permit history of the applicant, including whether such applicant has ever had any license or permit for a massage business or establishment, as owner, operator, or manager issued by any agency or board, city, county, state, territory, or federal agency denied, revoked, or suspended, or has had any professional or vocational license or permit denied, revoked, or suspended and the reason(s) for the denial, revocation, or suspension.
- (11) All criminal convictions for any of the offenses set forth in this chapter, and a statement of the dates and places of such convictions, along with a current copy of his or her Criminal Index Information (CII) report.
- (12) If the applicant is a corporation, the name of the corporation must be set forth exactly as shown in the articles of incorporation or charter, together with the states and date of incorporation and names and residence addresses of each of its current officers and directors, and each stockholder holding more than five (5%) percent of the stock of the corporation. If the applicant is a partnership, the application must set forth the names and residence addresses of each of the partners, including the limited partners. If the applicant is a limited partnership, it must furnish a copy of its certificate of limited partnership filed with the county clerk. If one or more partners is a corporation, the provisions of this section pertaining to corporate applicants will apply. The applicant corporation, partnership, or business entity must designate one of its officers or general partners to act as its Responsible Managing Officer. Such person must complete and sign all application forms required of any individual applicant under this chapter, but only one application fee will be charged. Each additional owner/partner designated as an RMO, if any, on a Massage

Establishment Permit shall pay an additional permit fee as outlined in the Schedule of Service charges. Such person shall, at all times, meet all of the requirements set for Permittees by this Article or the Permit shall be suspended until a Responsible Managing Officer who meets such requirements are designated. If no such person is found within 90 calendar days after the Permit's suspension, the corporation, partnership, or business entity's Permit is deemed canceled. If the corporation, partnership, or business entity wishes to reapply for a Permit after such cancellation, a new application shall be filed.

- (13) State and Federal Employer Identification Numbers (EINs), if any.
- (14) The name and addresses of the owner and lessor of the real property upon or in which the Massage Establishment or Off-premises Massage Business is to be operated, and a copy of the lease or rental agreement. If the applicant is not the legal owner of the property, a notarized acknowledgement from the owner of the property that a Massage Establishment or Off-premises Massage Business will be located on his or her property is required for each Massage Establishment Permit location. Such acknowledgement will also inform the property owner that, in addition to any other liability that may be imposed by law, the property owner can be held legally responsible for the costs of any nuisance abatement under this chapter relating to the property on which the Massage Establishment or Off-premises Massage Business is located.
- (15) The full true names and other names used, the present addresses and telephone numbers, California driver's license numbers, birth date, and social security numbers, and state certificates from the CAMTC licenses for all Massage Practitioners who will be working as employees or independent contractors at each Massage Establishment or Off-premises Massage Business location and all other employees regardless of the nature of the employment. The applicant must also provide this information for the Managing Employee and any Operators. At least one actual person must be designated as a Managing Employee, who may be the RMO. The applicant must provide the Chief of Police with any changes in the Massage Practitioners and employees that work at the Massage Establishment or Off-premises Massage Business during the permit period within ten (10) working days of each change.
- (16) Applicant must pay for and obtain an independent Live Scan fingerprinting from an independent City-approved provider and have the results sent to the City of Simi Valley Police Department by the Department of Justice for the purpose of verifying identification and checking background information and convictions.
- (17) Applicant must pay for and obtain an independent background investigation from a City-qualified background investigative firm and have the results sent to the City of Simi Valley Police Department by the investigative firm. The Police Department shall maintain and update no less frequently than every two years a list of City-approved firms that provide this service.
- (18) Such other identification and information as may be required by the Chief of Police in order to verify the information to be included in the application.

Applicant shall provide written authorization for the City, its agents, and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and into the background of the applicant and the RMO, Managing Employee(s), and Operators of the Massage Establishment or Off-premises Massage Business.

- (c) Plans. An application for a Massage Establishment shall also include the following, and shall be subject to the review and approval of the Building and Safety and Planning Divisions prior to issuance of any commercially based Massage Establishment Permit:
- (1) A floor plan of the facility that identifies all existing and proposed required operational characteristics.
 - (2) Any proposed window or building signage.
- (d) The City is allowed a reasonable time, not to exceed sixty (60) days, in which to investigate the information on the application. During the investigation of the background information, a City representative including, without limitation, a member of the Police Department, Fire Department, Building and Safety Division, Planning Division, or Code Enforcement Division, or any authorized representatives or contractors thereof, may inspect, with or without notice during regular business hours, the proposed place of business to determine whether it conforms to the requirements of this chapter. Upon completion of the inspection, the City representative must inform the Chief of Police in writing of the findings of the inspection.
- (e) A Massage Establishment Permit or Off-premises Massage Permit, or a denial of the application for such Permit, will be issued within sixty (60) days of receipt of a complete application and all information necessary to complete the application review and approval, to any applicant who has furnished all of the information required by this section in the application for such license, provided:
- (1) The applicant has not made a material false statement in the application, and all Massage Practitioners who will be working as employees or independent contractors at each Massage Establishment or Off-premises Massage Business location possess current and valid certification from the CAMTC as a massage practitioner or massage therapist;
 - (2) The applicant, if an individual, or in the case of an applicant which is a corporation, limited liability company, partnership or other business entity, any of its RMOs, has not, within ten (10) years immediately preceding the date of the filing of the application, been convicted in a court of competent jurisdiction of any Specified Criminal Offense as defined in this chapter, as well as any offense requiring registration under Penal Code section 290 or Health and Safety Code section 11550 or 11590, any offense involving the possession, possession for sale, sale, transportation, furnishing, or giving away of a controlled substance specified in Health and Safety Code sections 11054 to 11058, the applicant has not been convicted under the Red Light Abatement Act (Penal Code Section 11225 et seq.), or any offense in another state, which if committed in California, would have been punishable as one or more of the above listed offenses, or any offense involving the use of force or violence upon

the person of another, or any offense involving theft, embezzlement, or moral turpitude;

- (3) The applicant is at least eighteen (18) years of age;
 - (4) The applicant has not had a massage technician, massage practitioner, massage therapist, massage business, Massage Establishment, Off-premises Massage Business, escort service, nude entertainment, nude photo studio, or similar type of license or permit suspended within one year or revoked within three (3) years immediately preceding the date of the filing of the application, unless the applicant can show a material change in circumstances or that mitigating circumstances exist since the revocation or suspension;
 - (5) The applicant has obtained a Zoning Clearance and or Home Occupation Permits as applicable, and paid all application fees for the Massage Establishment Permit or Off-premises Massage Permit, Business Tax Certificate Application, and obtained a Certificate of Occupancy;
 - (6) Any application will be denied if the applicant fails to provide information identified by the Chief of Police as reasonably necessary to review the application within thirty (30) days of such request. The Chief of Police when requesting such information within the sixty (60) day review period after receipt of the application may extend the review period by another thirty (30) days;
 - (7) If prosecution is pending against the applicant for conduct violating this Article's provisions, the Chief of Police may postpone decision on the application until the final resolution of the prosecution. As used in this subsection, prosecution means charges filed by the District Attorney or City Attorney, administrative proceedings brought by a local government or agency, or civil or administrative action maintained by any city, county, state, or government;
 - (8) The Chief of Police may postpone decision on a license or Permit application until the City receives the applicant(s) fingerprint review results from the Department of Justice and the background clearance from the City-approved provider;
 - (9) If the Permit application is denied, the Chief of Police shall give written notice of the grounds for denial to the applicant personally or by first class mail, postage prepaid, at the address provided in the application. The notice shall advise the applicant on the right to appeal the decision.
- (f) It shall be unlawful to open a Massage Establishment or Off-premises Massage Business in the City without first obtaining approval in the form of a valid Massage Establishment Permit or Off-premises Massage Permit from the Chief of Police to do so.

5-15.06 - Additional requirements.

- (a) Before operating a Massage Establishment in the City, Massage Establishment Owners must comply with all applicable codes adopted by the City, including, without limitation, the building, electrical, and plumbing codes.

- (b) **Massage Practitioner Registration.** All CAMTC-licensed Massage Practitioners that intend to provide Massage services as an employee or independent contractor within the City of Simi Valley shall register with the Chief of Police and will be provided with a City-issued photo identification badge. Registration may be completed by the employer or employee, but is ultimately the responsibility of the CAMTC-licensed Massage Practitioner to have this identification card. The Massage Practitioner registration contact information shall be kept current and shall be updated within ten (10) days with the Police Department upon any changes in employment or personal contact information.
- (c) **Massage Establishments or Off-premises Massage Businesses** must be in compliance, to the extent applicable, with California Civil Code Section 52.6 that addresses the problem and crime of Human Trafficking requiring certain businesses to post a notice informing the public of the National Human Trafficking Resource Center, the California Coalition to Abolish Slavery and Trafficking (CAST), and the Ventura County Coalition Against Human Trafficking or successor(s), at certain businesses throughout the state by providing flyers in a conspicuous place at their business that provide notice and the organizations contact information.

5-15.07 - Display of CAMTC certificates.

- (a) Any Owner, RMO or Managing Employee of a Massage Establishment or an Off-premises Massage Business must display the CAMTC certificates for all Massage Practitioners prominently in a conspicuous place in the establishment, capable of being viewed by customers or City representatives, at every fixed location where Massage is performed or conducted.
- (b) For any Off-premises Massage, all Massage Practitioners must carry a copy of their CAMTC certificate and display it to customers or to City representatives upon request.
- (c) Each Massage Practitioner shall be issued a photo identification badge from the Police Department. When visiting a location other than a Massage Establishment in order to give a Massage, each Massage Practitioner shall display the badge upon request.

5-15.08 - Prohibited conduct.

It is unlawful for Owners, RMOs or Managing Employees of Massage Establishments or Off-premises Massage Businesses, or Massage Practitioners, or property owners on whose property a Massage Business is located to conduct or allow any of the following activities:

- (a) For any Massage Practitioner or any other employee working in a Massage Establishment or Off-premises Massage Business, or customers, patrons, or guests of the establishment or service to engage in any Specified Sexual Activities upon the premises of the Massage Establishment or the Off-premises Massage Business location.

- (b) Engaging in overt, sexually suggestive advertising related to Massage services that would reasonably suggest to a potential customer that any of the Specified Sexual Activities is being offered.
- (c) For any Massage Practitioner or any other employee of a Massage Establishment or Off-premises Massage Business to expose Specified Anatomical Areas in the presence of, or engage in any Specified Sexual Activity with, any patron, customer, or guest.
- (d) Providing Massage of the genitals or anal region.
- (e) Providing Massage of female breasts without the written consent of the person receiving the Massage and a referral from a licensed California health care provider.
- (f) For a Massage Practitioner or Massage Establishment or Off-premises Massage Business employee to make intentional physical contact with the Specified Anatomical Areas of any customer, patron, or guest, in the course of administering the Massage.
- (g) Dressing while engaged in the practice of Massage for compensation, or while visible to clients in a Massage Establishment or Off-premises Massage Business, in any of the following:
 - (1) Attire that is transparent, see-through, or substantially exposes the certificate holder's undergarments.
 - (2) Swim attire, if not providing a water-based Massage modality approved by CAMTC.
 - (3) A manner that exposes the certificate holder's breasts, buttocks, or genitals.
 - (4) A manner that constitutes a violation of Section 314 of the Penal Code.
- (h) Committing any act punishable as a sexually related crime or being required to register pursuant to the Sex Offender Registration Act (Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1 of the Penal Code), or being required to register as a sex offender in another state.
- (i) Provide Off-premises Massage that includes any services not authorized by this chapter, or applicable State or Federal statute, rule, or regulation.

5-15.09 - Massage Establishment facilities and operations requirements.

- (a) Facility Requirements. Each Massage Establishment shall comply with the following facility requirements:
 - (1) Signs. A recognizable and legible sign complying with the requirements of this Code, shall be posted at the main entrance identifying the location as a licensed Massage Establishment or Off-premises Massage Business. Permits do not need to be displayed at home-based Off-premises Massage Businesses.
 - (2) Massage Establishment Permit. A recognizable and legible Massage Establishment Permit, provided by the City, identifying the name, owner, and valid dates of operation, and complying with the requirements of this Code,

shall be posted at the main entrance lobby identifying the location as a licensed Massage Establishment or Off-premises Massage Business. Permits do not need to be displayed at home-based Off-premises Massage Businesses.

- (3) Lighting. In addition to the minimum lighting required by the provisions of Title 8 of this Code, at least one artificial light of not less than forty (40) watts shall be provided and turned on in each room or enclosure where Massage is to be performed on patrons.
 - (4) Ventilation. Minimum ventilation must be provided and operational in accordance with the California Building Code, as adopted by this Code.
 - (5) Disinfection of Instruments. Instruments used for Massage must be disinfected before each use. Where instruments for Massage are employed, adequate quantities of supplies for disinfection must be available during all hours of operation.
 - (6) Closed cabinets shall be provided and utilized for the storage of clean linens and towels. Appropriate receptacles shall also be provided for the storage of all soiled linens and towels.
 - (7) Massage tables or chairs. A massage table or chair shall be provided in each massage room, and the Massage shall be performed on this massage table or chair, with the exception of "Thai," "Shiatsu," or similar forms of Massage, which may be performed on a padded mat on the floor. Beds and floor mattresses are not permitted on the premises.
 - (8) Any locker facilities provided for the use of patrons shall be fully secured for the protection of the patron's valuables, and the patron shall be given control of the key or other means of access.
- (b) Operational Requirements. Each Massage Establishment or Off-premises Massage Business shall comply with the following operational requirements, as applicable:
- (1) General Cleaning. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet facilities shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use. This subsection (b)(1) is not applicable to Off-premises Massage Businesses that do not provide Massage at a fixed location.
 - (2) Towels and Linens. Clean and sanitary towels, sheets, and linens shall be provided in sufficient quantity. Towels, sheets, and linens shall not be used by more than one patron. Reuse of such linens is prohibited unless such linen has first been laundered. Heavy white paper may be substituted for sheets provided that such paper is used once for each patron and then discarded into a sanitary receptacle.
 - (3) Patron Garments. All bathrobes, bathing suits, or other garments provided for the use of patrons must be either disposed of after any use or laundered as provided in subsection (b)(2) above.

- (4) Dressing Rooms. If separate dressing rooms are offered, they may be occupied by no more than one person at a time, excepting for guardians, immediate family, and personal aids for the disabled. Dressing rooms need not be separate from the room in which the Massage is being performed.
- (5) Toilet facilities shall be provided in convenient locations within the Massage Establishment and shall consist of a least one unisex toilet with lavatories or wash basins provided with soap and both hot and cold running water either in the toilet room or vestibule.
- (6) A minimum of one wash basin for employees shall be provided at all times. The basin shall be located within or as close as practicable to the area devoted to performing of Massage services. Soap and sanitary towels shall also be provided at each basin.
- (7) Locked Doors. All exterior doors (except a rear entrance for staff only) and interior doors must remain unlocked during business hours, unless there is no Massage Establishment staff available to assure the security of patrons and Massage Practitioners who are behind closed doors. This requirement is not applicable to Off-premises Massage Businesses that do not provide Massage at a fixed location.
- (8) Service List and Prices. For each Massage service offered, the price of the service and the minimum length of time such service will be performed shall be posted in a conspicuous public location in each Massage Establishment. Off-premises Massage Businesses that do not provide Massage at a fixed location shall provide such list, in writing, from each Massage Practitioner, available upon request of customer, prior to providing such services. No services may be performed and no sums of money may be charged for such services other than those posted. All arrangements for services to be performed at a fixed location must be made in a room in the Massage Establishment not being used for Massage, unless no other room exists in the establishment.
- (9) Massage Practitioner Attire and Hygiene. All Massage Practitioners shall be clean and shall perform all services in full, clean outer garments as specified in this chapter and Business and Professions Code 4609, and shall not include dressing while engage in the practice of Massage, or while visible to clients in a Massage Establishment or Off-premises Massage Business location, in any of the following:
 - (i) Attire that is transparent, see-through, or substantially exposes the certificate holder's undergarments.
 - (ii) Swim attire, if not providing a water-based Massage modality approved by CAMTC.
 - (iii) A manner that exposes the certificate holder's breasts, buttocks, or genitals.
 - (iv) A manner that constitutes a violation of section 314 of the Penal Code.
 - (v) A manner that is otherwise deemed by CAMTC to constitute unprofessional attire based on the custom and practices of the profession in California.

- (10) Patron Attire. The patron's genitals, pubic area, anus, and a female patron's breasts below a point immediately above the top of the areola must be fully draped at all times while any massage technician is in the massage room or cubicle with the patron.
- (11) Off-premises Massage Business Equipment. All equipment, towels, linens, and materials used during and in the performance of the Massage activities provided by or used by the Massage Practitioner as part of an Off-premises Massage Business shall comply with all of the hygiene standards specified above applicable to services provided in a location that is not fixed.
- (12) Advertising. All advertising of Massage for compensation shall include the name under which he or she is certified and his or her CAMTC certificate number. All establishments, businesses, properties or providers that offer Massage for compensation shall include the license numbers of the certificate holders who provide Massage services at the facility. No advertising shall falsely state or advertise, be put out on any sign or card or other device, or falsely represent to the public through any phone, print or electronic media anything sexually suggestive related to Massage services nor shall any person, business or establishment hold himself, herself, or itself as a certified Massage provider or establishment unless currently holding active and valid certificates issued by CAMTC and the City. No Permittee, owner, contractor, landlord or employee of a Massage Establishment or Off-premises Massage Business shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective customers that any service is available that is prohibited under this Chapter nor shall any Massage Establishment or Off-premises Massage Business employ language in any advertising or business name that would reasonably suggest to a prospective client that any service is available that is prohibited under this chapter.
- (13) A Massage Establishment or Off-premises Massage Business (commercial locations) must not be used for residential or sleeping purposes.
- (14) No alcoholic beverages shall be sold, served, furnished, kept, consumed, or possessed on the premises of any Massage Establishment.
- (15) Controlled substances must not be consumed in a Massage Establishment unless the person has a prescription for the substance.
- (16) Massage Establishment hours of operation and services. No Massage Establishment shall operate nor shall any Massage be administered in any Massage Establishment between the hours of 10:00 p.m. and 7:00 a.m. A Massage begun any time before 10:00 p.m. must nevertheless terminate at 10:00 p.m. The hours of operation must be displayed in a conspicuous public place in the lobby within the Massage Establishment and in any front window clearly visible from outside of the Massage Establishment. Unless otherwise specified in this chapter, Off-premises Massage Businesses must observe the same time windows and requirements with respect to the provision of Massage as a Massage Establishment at a fixed location.
- (17) The use or possession of Adult Oriented Merchandise in or on any part of a Massage Establishment is expressly prohibited.

- (18) Condoms must not be kept for any purpose in the Massage Establishment.
- (19) Recordings.
- (i) No electrical, mechanical or artificial device shall be used by the Operator and/or RMO, Managing Employee, Massage Therapist or any employee of the Massage Establishment for audio and/or video recording or for monitoring the performance of a Massage, or the conversation or other sounds in the massage rooms without the knowledge and written consent of the patron.
 - (ii) No video recording devices or surveillance cameras of any type may be installed into rooms in which Massage services will be rendered. No live-viewing, broadcasting, or streaming or audio or video may occur in the massage establishment where Massage services will be rendered.
- (20) All Massage services shall be paid for in the reception area. Massage Establishments may utilize a system where tip envelopes are provided in the treatment rooms to be utilized and deposited by the client in the reception area. This requirement is not applicable to Off-premises Massage Businesses that do not provide Massage at a fixed location.
- (21) No person other than the client, the Massage Practitioner assigned to the client, and the client's immediate family or guardian are allowed in the massage room if any door into the massage room is closed. Others may be in the massage room so long as all doors to the room are fully open. If more than one non-related patron is to be treated simultaneously at the same massage establishment, separate massage rooms shall be provided for each patron except as allowed for couples massage pursuant to the following provisions:
- (i) Massage may be provided to no more than two persons at the same time in the same room pursuant to all of the following requirements:
 - (a) The massage establishment providing a couples Massage must identify these services within their Permit application.
 - (b) A couples Massage may only be performed in a room of at least 100-square feet in size.
 - (c) Two certificated Massage Practitioners must be present in the room at all times when a couples Massage is provided.
 - (d) Two massage tables must be present in the room and only one patron is allowed to receive a Massage on a single massage table at one time while a couples Massage is provided.
- (22) It is unlawful for an Owner, Operator, or Managing Employee to fail to maintain a record of services provided for each treatment. The record of treatment shall include the name and address of the patron, the name of the Massage Practitioner, the name of the Operator(s) or Managing Employee on site during the Massage, the type of service provided, and the time the service began and ended.

- (23) It is unlawful for an Owner, Operator, or Managing Employee to fail to keep or maintain on file and ready for inspection a statement designating the individual Operator(s) or Managing Employees responsible for the day-to-day operations at all times.
- (24) It is unlawful for an Owner, Operator, or Managing Employee to not have a designated Operator or Managing Employee on the premises at all times the Massage Establishment is open.
- (25) It is unlawful for an Owner, Operator, or Managing Employee to engage in, conduct, or carry on business of a Massage Establishment at any time unless the Massage Establishment or Off-premises Massage Business has a current and in effect policy of insurance issued by an insurance company authorized to do business in the State of California evidencing that the person is insured under a liability insurance policy providing a minimum coverage of one million dollars (\$1,000,000.00) for injury or death to any person arising out of the operation of any massage establishment and the administration of a Massage. The City must be provided notice of a lapse in any such policy by the RMO if there is a period after the lapse for which no coverage has been secured. Evidence of such a policy should be available on the premises of the Massage Establishment or offices of the Off-premises Massage Business at inspection upon request.
- (c) CAMTC Certificate. All Massage Practitioners shall have on his or her person, or maintain on the premises, their CAMTC certificate identification card. Such identification card shall be provided to City officials or authorized City contractors upon request. A minimum of one CAMTC certificate holder shall be on the premises at all times while the Massage Establishment is open for business if the Massage Establishment offers Massage at a fixed location.
- (d) Owner responsibility. Each Owner, Operator, and Managing Employee is responsible for the conduct of all employees, agents, independent contractors, or other representatives occurring on the premises of the Massage Establishment and while Massage is being provided in such Massage Establishment.
- (e) Property owner responsibility. Each property owner of the physical premises on which a Massage Establishment is located must provide the required acknowledgement in Section 15.05(b)(14) above, consenting to a Massage Establishment on their premises and acknowledging that the property owner has been informed that, in addition to any other liability that may be imposed by law, they can be held legally responsible for the costs of any nuisance abatement under this chapter relating to the property on which the Massage Establishment is located. The City may provide property owners with notice of any violations, fines, convictions, suspensions, or revocations of Massage Establishments or otherwise related to this chapter on said property.

5-15.10 - Exceptions.

The requirements of this chapter do not apply to the following classes of individuals, and no CAMTC certification is required of such persons while engaged in the performance of the duties of their respective professions:

- (a) Any physician, surgeon, chiropractor, osteopath, naturopath, podiatrist, acupuncturist, physical therapist, registered nurse, or vocational nurse duly licensed to practice their respective profession in the State of California.
- (b) Barbers, cosmetologists, estheticians, and manicurists licensed to practice their respective profession under the laws of the State of California while performing activities within the scope of their license, provided that such massage is limited solely to the neck, face, scalp, feet, hands, arms, or lower limbs up to the knee, of their patrons.
- (c) Personal services businesses, such as day spas, salons, beauty parlors, barber shops, or businesses relating to Personal Services as defined in Section 9-80.020 of the Municipal Code, or medical offices or clinics, that provide up to 15% of their gross floor area for Massage activities are not considered Massage Establishments. However, persons administering Massages at such businesses shall comply with all state and local licensing provisions including registration.
- (d) State-licensed hospitals, nursing homes, and other state-licensed physical or mental health facilities and their employees.
- (e) Any treatment administered in good faith in the course of the practice of any healing art or profession by any person licensed to practice any such art or profession under the California Business and Professions Code or any other law of the state.
- (f) Registered Schools and their employees that provide massage therapy education or training and their students in training, provided that such students perform Massage only under the direct personal supervision of an instructor.
- (g) Establishments that have no private treatment rooms where all services are performed in a singular, open room, visible to the public.
- (h) Trainers of amateur, semiprofessional, or professional athletes or athletic teams while engaging in their training responsibilities for and with athletes, and trainers working in conjunction with a specific athletic event such as road races, track meets, triathlons, biathlons, or similar single occurrence athletic or recreational events.

5-15.11 - Off-premises Massage Business location and time restrictions.

No Off-premises Massage Business shall conduct Massage in a hotel or motel room, vehicle, or in the private residence of the certified Massage Practitioner. No outcall Massage may be provided in a private residence, or business not regularly providing Massage services, between 10:00 p.m. and 7:00 a.m. Notwithstanding the foregoing, a certified Massage Practitioner is permitted to provide outcall Massage services at a private residence so long as it is not the private residence of the certified Massage Practitioner and is not provided between 10:00 p.m. and 7:00 a.m. All outcall Massage Practitioners shall be registered and issued an identification badge from the Chief of Police as outlined in this chapter.

5-15.12 - Business tax certificate and zoning clearance.

- (a) Each Massage Establishment operating within the City, Off-premises Massage Business either within or doing business in the City limits, or Sole Proprietor performing Massage for compensation within City limits as an Off-premise Massage Business, must obtain and maintain a business tax certificate as provided in Chapter 1 of Title 3 of the Simi Valley Municipal Code. Business tax certificate applications shall not be approvable until such time as the items in sections (b)-(c) below are completed and approved, and a massage establishment permit, massage business permit or Police Department issued identification card has been issued.
- (b) Each person desiring to open a Massage Establishment or Off-premises Massage Business within the City must first obtain a Zoning Clearance or Home Occupation Permit from the Department of Environmental Services indicating that the Massage Establishment or Off-premises massage business office sought to be opened is doing so in an appropriately zoned location within the City. A Zoning Clearance does not confer or authorize any entitlement to a use permit, Massage Establishment Permit, Off-premises Massage Permit, massage practitioner or massage therapist license, building permit, or similar permit.
- (c) Each Sole Proprietor desiring to open an Off-premises Massage Business must obtain an Off-premises Massage Permit and register with the Police Department as a Massage provider. If this business is conducted out of the Sole Proprietor's City of Simi Valley based residence, as a home based business (office only), the applicant must first be obtain a Home Occupation Permit (HOP) from the Department of Environmental Services indicating the business sought to be opened is appropriately zoned and will provide only office uses within such home in accordance with the HOP requirements. A HOP does not confer or authorize any entitlement for Off-premises or on-premises Massage, massage certification, license, or similar permit. A HOP shall not apply to a non-residential based businesses.

5-15.13 - Permit duration and renewal.

- (a) A Massage Establishment Permit or Off-premises Massage Permit shall be valid for two years from the date of issuance unless revoked or suspended.
- (b) A Permittee may apply for renewal of a Permit 60 calendar days prior to the expiration of the Permit. If a complete application for renewal is not received by the expiration date, the Permit shall be deemed expired. Any Permit issued under this chapter shall be returned to the Chief of Police within 48 hours of its expiration. No privilege to provide Massage shall exist until an application for renewal has been granted. After a Permit expires, a new application may be filed.
- (c) Permits may be renewed by filing an application for renewal under penalty of perjury, and updating information and photograph(s) in the original application provided to the Chief of Police.
- (d) Verification of continued certification, in good standing, from CAMTC, of all Massage Practitioners owning or working in any capacity with the Massage Establishment or Off-premises Massage Business shall accompany the application for renewal. During the pendency of the renewal application, verification of CAMTC

certification of all new Massage Practitioners hired by a Massage Establishment shall be submitted to the Chief of Police as a supplemental to the renewal application within ten (10) days of hiring a new Massage Practitioner.

- (e) To renew a Massage Establishment Permit, Off-premises Massage Permit or Massage Practitioner, the Permittee shall pay the City a nonrefundable fee in an amount set forth by resolution of the City Council.
- (f) Prior to approval of the renewal for a Massage Establishment at a fixed location, the Chief of Police shall cause an inspection of the facility. The facility, Owner, Operators, Managing Employees, and other personnel, employees, and contractors must be found in compliance with all regulations of this chapter at the time of the inspection, or the request for renewal will be denied. Any denial of the facility may be appealed in accordance with this chapter. If the denial is not reversed on appeal, the Massage Establishment will be found in immediate violation of this chapter and the Massage Establishment Permit, Off-premises Massage Permit, Business Tax Certificate, Business License, Zoning Clearance, and Home Occupation Permit, as applicable, will be immediately revoked.
- (g) After investigating the application for renewal, the Chief of Police shall renew the Permit if the Permittee continues to meet the requirements for issuance of a Permit, and none of the grounds for denial of a Permit or Permit renewal set forth in this Chapter exist. The Chief of Police shall renew the Permit within 30 calendar days of such request if the information upon which the original application was granted remains materially unchanged and no violations of this Chapter have been committed. The Chief of Police shall at his or her sole discretion optionally extend time in writing for the renewal investigation if required to make a determination of renewal or non-renewal. If such extension goes beyond the original expiration date of the Permit, the Permittee may continue operation until such time as the Chief of Police makes a determination on the application for renewal.
- (h) Should the Chief of Police reasonably determine that an application for renewal presents materially and substantially new or different information compared to the expiring Massage Establishment Permit or Off-site Massage Permit, the Chief of Police may consider the existing Massage Establishment Permit or Off-premises Massage Business Permit to have expired, and the Permit holder shall then be required to file a new Massage Establishment Permit or Off-premises Massage Business Permit application. Notice shall be given to the applicant of the determination of such expiration, and the applicant may appeal such determination of expiration pursuant to Section 5-15.17 of this chapter.

5-15.14 - Notification of changes.

Every Massage Establishment Owner, Off-premises Massage Business Owner, Operator, or Managing Employee shall report in writing within ten (10) working days to the Chief of Police any and all changes of address, primary email address (if any), or ownership of the Massage Establishment or Off-premises Massage Business, and any changes or transfers of Massage Practitioners employed or providing independent contract services in or for the Massage Establishment or Off-premises Massage Business. Any change in Operators or Managing Employees must also be reported within ten (10) working days in the same manner. The Owner shall include an updated

copy of all Massage Practitioners' CAMTC licenses for all changes along with the registration of the employee if not previously registered. Any pending application for a Permit pursuant to Section 5-15.05 of this chapter shall not be transferable.

5-15.15 - Public nuisance abatement.

- (a) Any Massage Establishment or Off-premises Massage Business operated, conducted, or maintained contrary to the provisions of this chapter is unlawful and a public nuisance. The City Attorney is authorized, in addition to or in lieu of any other legal or criminal proceedings, to commence an action or proceeding for abatement, removal, or enjoinder of the unlawful operation or maintenance of such Massage Establishment or Off-premises Massage Business in the manner provided by law. The City Attorney may seek a court order to grant such relief to abate or remove such Massage Establishments or Off-premises Massage Businesses and restrain and enjoin any person from operating, conducting, or maintaining such an establishment contrary to the provisions of this chapter.
- (b) Nuisance abatement cost liability. Any person creating, causing, committing, or maintaining any nuisance related to a Massage Establishment or Off-premises Massage Business under this chapter, as well as the property owner on which such Massage Establishment or Off-premises Massage Business is located, is liable for the costs of abating such nuisance. Abatement costs include, without limitation, law enforcement costs incurred by the City (including staff time), court costs, and costs of repair. Abatement costs do not include attorney's fees unless, at the time of request of such fees, they are sought in writing by the City, and in which case they may be awarded to the prevailing party in any action to abate the relevant nuisance.
- (c) Nuisance abatement lien. In addition to any other remedies or powers under civil or criminal law, the City Attorney is hereby authorized to collect all abatement costs from the abatement of any nuisance defined in this chapter through a nuisance abatement lien. Prior to the recordation of this lien, notice shall be provided to the owner of record of the parcel of land on which the nuisance is maintained, based on the last equalized assessment roll or the supplemental roll, whichever is more current. Such notice shall comply with the procedures set forth in California Government Code Section 38773.1 or any successor or replacement provision, or any permitted alternative procedures allowed by law.
- (d) Cost of nuisance abatement as special assessment. As an alternative to a nuisance abatement lien as set forth in Section 5-15.15(c), the cost of abatement related to a Massage Establishment or Off-premises Massage Business may be applied as a special assessment upon the parcel of land on which the Massage Establishment or Off-premises Massage Business is located. Any such process to place a special assessment upon a parcel of land will comply with the notice and procedural requirements set forth in California Government Code Section 37773.5 or any successor or replacement provision, or any permitted alternative procedures allowed by law.

5-15.16 - Denial or revocation of Permits.

- (a) Grounds for Denial or Revocation. The Chief of Police may deny or revoke Permits issued under this chapter for one or more of the following grounds:
- (1) Fraud or Deceit. The applicant practiced fraud or deceit in obtaining an approval under this chapter;
 - (2) Violation of Chapter. The Massage Establishment Owner, Off-premises Massage Business Owner, Operator, RMO, Managing Employee, any Massage Practitioner, or any of the Massage Establishment's or Off-premises Massage Business' employee(s) or contractors violated a provision or provisions of this chapter or Business and Professions Code 4600 et seq. Although a single violation depending upon severity may be sufficient (for example subsection (5) below), two (2) violations in any twelve (12) month period or three (3) violations in any twenty-four (24) month period shall be prima facie grounds for revocation or denial;
 - (3) Criminal Conviction. The Massage Establishment Owner, Off-premises Massage Business Owner, Operator, RMO, Managing Employee, any Massage Practitioner, or any of the Massage Establishment's or Off-premises Massage Business' employee(s) or contractors has been convicted in a court of competent jurisdiction of any offense described in this chapter, including infractions;
 - (4) Improperly Maintained Facilities. The facilities and operations of the Massage Establishment and/or its equipment are not kept in compliance with this chapter, and that the owner or operator has failed to promptly remedy any deficiency of which they have been notified within the time period provided in the notice. For purposes of this subsection, "notice" means notice given personally or by leaving notice at the Massage Establishment premises, or by first class mail, postage prepaid, to the address designated by the Applicant, Permittee, or RMO in accordance with this chapter;
 - (5) Employment or Use of Uncertified Practitioners. The Massage Establishment has employed, allowed, or permitted a person to perform Massage in the Massage Establishment or under the sponsorship of the Off-premises Massage Business who is not a CAMTC certified Massage Practitioner;
 - (6) Employment of Persons under 18 Years of Age. The Massage Establishment has employed, allowed, or permitted to work within the facility, or under the sponsorship of the Off-premises Massage Business who is not 18 years of age or older.
 - (7) Error. The approval or permit was issued in material or substantial error;
 - (8) Prohibited Conduct. A Massage Establishment Owner, Off-premises Massage Business Owner, Operator, RMO, Managing Employee, Massage Practitioner, or its employee(s) or agent(s) has been found to have engaged in prohibited conduct in violation of this chapter or operating on a suspended or revoked Massage Establishment Permit or Off-premises Massage Permit, Business Tax Certificate, Zoning Clearance or Home Occupation Permit.
 - (9) Disqualifying Conduct shall include:

- (i) Conviction of, or entry of a plea of guilty or no contest to, an offense that requires registration under California Penal Code Section 290, or which is a violation of section 266(i), 314, 315, 316, 318, or 647(b) or the sections in Part 1, Title 9, Chapters 7.5 or 7.6 of the Penal Code, a Specified Criminal Offense, or equivalent offenses under the laws of another jurisdiction, or any offense involving sexual misconduct with children or adults, even if expunged pursuant to Penal Code section 1203.4;
 - (ii) Conviction of, or entry of a plea of guilty or no contest to, an offense involving the sale of a controlled substance specified in sections 11054 through 11058, 11351, 11352, 11358 through 11363, or 11378 through 11380 of the California Health and Safety Code, or equivalent offenses under the laws of another jurisdiction, even if expunged pursuant to Penal Code section 1203.4;
 - (iii) Conviction of, or entry of a plea of guilty or no contest to, a violation of Penal Code Section 415 as a result of an arrest for violation of Penal Code Section 647(b).
 - (iv) Any conduct violation of any relevant California or Federal statute, including but not limited to, Business and Professions Code 4600 et seq.
- (10) Disciplinary action. Any disciplinary action taken by CAMTC shall be considered in determining grounds for denial or revocation. Any revocation by CAMTC of a practitioner license for a provider who is a Sole Proprietor shall result in immediate revocation of the Permit issued by the City and require reapplication by the Sole Proprietor for a new Permit.
- (11) Failure to provide on-going information. Any failure of the Massage Establishment or Off-premises Massage Business to provide required or updated information as specified by this chapter or failure to renew required Business Tax Certificates.
- (12) Failure to Maintain Bona Fide Employment. Proof of an employer-employee relationship between the operator of the Massage Establishment or Off-premises Massage Business and any person working at or for the Massage Establishment or Off-premises Massage Business. Satisfactory proof of bona fide employment must be shown by written payroll documentation evidencing the employer's compliance with California Employment Development Department (EDD) requirements for the withholding of California income tax, unemployment insurance contributions, and disability contributions from the employee and written payroll documentation of the employer's compliance with Internal Revenue Service (IRS) requirements for the withholding of federal income taxes, Social Security (FICA) contributions, and Medicare contributions from the employee. Such written documentation can include, but is not limited to, W-2 wage and tax statements.
- (13) Use of the facility for temporary or permanent housing, overnight stays or other residential uses.
- (b) Notice of Revocation. Upon a determination on the grounds to revoke a Permit under this chapter, the Chief of Police must cause a notice of revocation to be mailed by first class mail, postage prepaid, to the address set forth as the service

address in the Permit application or any updated address provided to the City by the Massage Establishment or Off-premises Massage Business pursuant to this chapter.

- (c) No Massage Establishment shall be established at a location where a Massage Establishment was closed due to conduct which violated any provisions of this chapter for one year.
- (d) Reapplication After Denial. No reapplication for a Massage Establishment Permit or Off-premises Massage Permit will be accepted within one year after an application or renewal is denied or an Massage Establishment or Off-premises Massage Permit is revoked, provided that, if a Sole Proprietor is denied for the sole reason that a Sole Proprietor does not possess a CAMTC certification, reapplication may occur after CAMTC certification has been attained.
- (e) Burden of Proof. Unless otherwise specifically prohibited by law, the burden of proof is on the applicant or Permittee in any hearing or other matter under this Article.

5-15.17- Appeal.

Any Person denied an approval or Permit under this chapter or a Massage Establishment or Off-premises Massage Business Owner, RMO, Managing Employee or Operator whose approval or Permit has been revoked may appeal the denial or revocation in writing pursuant to the appeal procedures provided by Section 1-4.01 of this Code. Such appeal must be in writing and must be filed with the Chief of Police not more than fifteen (15) days following the mailing date of the notice of denial or revocation sent to the applicant or Massage Establishment Owner, RMO, Managing Employee or Operator pursuant to this chapter.

5-15.18 - Inspections and enforcement.

- (a) Representatives of the City's Building and Safety Division, Code Enforcement Unit, Planning Division, Police Department, and any duly appointed or engaged contractors thereof may, from time to time, with or without notice, make an inspection of each Massage Establishment in the City during regular business hours for the purpose of determining that all applicable laws are met. No person shall refuse to permit or interfere with a lawful inspection or compliance check of the premises by City officials or contractors.
- (b) The City Building and Safety Division and Police Department shall conduct application and occupancy inspections, prior to issuance of a Massage Establishment Permit, Off-premises Massage Permit, and Business Tax Certificate, that must be passed in order to receive approval. Application for occupancy inspection shall be made to the Building and Safety Division and include payment of non-refundable inspection fee as provided in the adopted Schedule of Service Charges in place at the time of application. Tenant Improvements requiring a permit shall be completed to satisfy the requirements for a Massage Establishment shall be completed prior to occupancy inspection.

- (c) Whenever any City official or contractor inspects a Massage Establishment and finds that any provision of this chapter has been violated, he or she shall give notice of such violation by means of an inspection report or other written notice, including, but not limited to, issuing a citation for each and every violation of this chapter or other applicable laws. In any such notification the investigating person shall:
- (1) Set forth the specific violation or violations found, and shall notify the Permittee that failure to comply with any notice issued in accordance with the provisions of this chapter may result in the revocation or denial of the relevant Permit.
 - (2) No time to correct need be given for health and safety violations or violation of criminal law.
 - (3) State that the Permittee, Owner, RMO, Managing Employee, and/or Operator, as applicable, shall take immediate action to correct violations and City officials or contractors may reinspect the business for compliance.
- (d) All methods of enforcement of this chapter, including but not limited to fines, notices of violations, citations, revocations, and criminal actions may be utilized by the City in parallel, serially, or otherwise at the City's discretion. Any provision of this chapter that entrusts an action to the Chief of Police may be delegated to his or her designee(s).

5-15.19 - Criminal penalties.

Any Person or entity that violates any provision of this chapter shall be guilty of a misdemeanor unless such offense is deemed an infraction by the City Attorney.

5-15.20 - Civil fines.

Any Person or entity that violates any provision of this chapter shall be subject to fines in accordance with Title 1, Chapter 8 (Civil Fines) of the Simi Valley Municipal Code. The amount of civil fines assessed pursuant to Title 1, Chapter 8 shall be established by resolution of the City Council.

5-15.21 - Exchange of information.

The Police Department is authorized to receive or provide information to CAMTC regarding arrest notifications, background materials about applicants, Permittees, and Massage Establishments or Off-premises Massage Businesses as appropriate. The City appoints the Chief of Police as the designated recipient of the CAMTC information regarding licensing, actions, probation, conditions, suspensions, or other activities of Massage Practitioners or Owners. The Chief of Police may utilize information so obtained in taking actions under this chapter.

5-15.22 - Permits nonassignable.

No Permit shall be sold, transferred, or assigned by the Permittee or by operation of law to any other Person. Any such sale, transfer, assignment, attempted sale, attempted transfer, or attempted assignment shall constitute an immediate revocation of the Permit, and the Permit shall thereafter be null and void. A new owner of a Massage

Establishment or Off-premises Massage Business must submit a new application for a Permit in accordance with this chapter.

5-15.23 - Change of name or location; expansion of building.

- (a) No Permittee shall operate under any name or conduct any Massage Establishment under any designation or location not specified in the Permit.
- (b) In the case of any proposed change of business name, notification thereof shall be made to the Chief of Police at least 30 calendar days prior to the change. Any proposed change of name is subject to approval of the Chief of Police and reissuance of Permits for the subject Massage Establishment or Off-premises Massage Business.
- (c) Any proposed change of location of a Massage Establishment is subject to the Owner obtaining a new, separate Massage Establishment Permit or Off-premises Massage Permit at the new location prior to operation. Permits are nontransferable to other persons or locations, in addition to compliance with all City ordinances and regulations.
- (d) Any application for an expansion of a building of a Massage Establishment shall require compliance with this chapter and all other applicable laws, and a revised floor plan must be submitted to the Planning Department for an updated Zoning Clearance and to the Chief of Police at least 30 calendar days prior to the change and shall not be effective until improvements are completed and occupancy inspections approved.
- (e) Any changes to the existing Massage Establishment operational floor plan as provided in the original application shall be provided to the Chief of Police for review and approval at least 30 calendar days prior to commencing such changes, and shall be in compliance with all City ordinances and regulations.

5-15.24 - Applicability to Existing Businesses and Practitioners.

- (a) Existing businesses operating a Massage Establishment or an Off-premises Massage Business that are already conducting business and in possession of all previously required licenses and/or permits for such business in the City of Simi Valley on the effective date of this ordinance must apply for the applicable Permit within ninety (90) days of the effective date of this ordinance (or within ninety (90) days after the repeal, relevant modification, or expiration of any applicable moratorium, whichever is later) and thereafter receive the applicable Permit(s) to continue operation. Upon application within the ninety (90) day period, the applicant will be issued a Provisional Massage Establishment Permit or Provisional Off-premises Massage Permit. A Provisional Massage Establishment Permit or Provisional Off-premises Massage Permit does not waive compliance with any other aspect of this chapter.
- (b) After application by an existing business for a Permit, the application will be granted or denied in conformance with the timelines and procedures of this Chapter. If a Permit is denied, the existing business may apply within fifteen (15) business days to the Chief of Police for an additional ninety (90) day extension of the Provisional Massage Establishment Permit or Provisional Off-premises Massage Permit. To

the extent that the denial set forth specific reasons for the denial, the applicant must state under penalty of perjury how the applicant intends to remedy each deficiency within ninety (90) days. If the applicant has stated a good-faith explanation of how it will remedy each deficiency, the Chief of Police will grant the additional ninety (90) day extension of the Provisional Massage Establishment Permit or Provisional Off-premises Massage Permit. Only one such extension will be allowed; after the extension, if the Permit is not granted, the denial will be permanent.

- (c) Sole Proprietor Registration. Existing CAMTC-licensed Sole Proprietors of Massage recognized by the City on the effective date of the ordinance implementing this chapter, and in possession of all previously required licenses and/or permits for such business in the City of Simi Valley on the effective date of this ordinance, must apply for a Massage Establishment Permit or Off-premises Massage Permit, as applicable, within ninety (90) days of the effective date of this ordinance and thereafter receive the applicable Permit(s) to continue operation. In addition, each Sole Proprietor must register with the Chief of Police and obtain a City-issued photo identification badge pursuant to Section 5-15.06(b) within ninety (90) days of the effective date of this ordinance. Registration may be completed by the employer or employee, but is ultimately the responsibility of the CAMTC-licensed provided to have the identification card.
- (d) No new businesses not already conducting business and in possession of all previously required licenses and/or permits for such business in the City of Simi Valley on the effective date of this ordinance may apply for or receive a Permit unless and until the repeal, relevant modification, or expiration of any applicable moratorium shall occur.

5-15.25 - Cease of Business. If at any time during the duration of a Permit issued under this chapter a Permittee ceases to do business as a Massage Establishment or Off-premises Massage Business, the Permittee shall return all Permits issued under this chapter to the Chief of Police within five business days and notify the Customer Services, Business Licensing Division.