

## Chapter 5.18

### MESSAGE BUSINESSES AND MESSAGE THERAPISTS

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#### 5.18.010 Citation of chapter.

This chapter may be cited as the City of Murrieta Massage Businesses and Massage Therapists Ordinance.

(Ord. 565-21, Exhibit A (part), 2021)

#### 5.18.020 Findings and purpose.

The City Council finds and declares as follows:

A. The purpose of this chapter is to provide for the orderly regulation of massage businesses and massage therapists within the City of Murrieta.

B. The requirements and restrictions imposed by this chapter are reasonably necessary to protect the public health, safety and welfare.

C. This chapter is adopted under the authority of California Business and Professions Code sections 460(c), 4600 et seq., and 16000; California Government Code Sections 37101 and 51030 through 51034; and the California Constitution Article XI, Section 7.

D. This chapter shall not be construed in a manner that is inconsistent with any state law governing the practice of massage. (Ord. 565-21, Exhibit A (part), 2021)

#### 5.18.030 Definitions.

Whenever the following words and phrases are used in this chapter, they shall mean:

"California Massage Therapy Council or CAMTC" shall mean the non-profit organization created by the State of California pursuant to California Business and Professions Code sections 4600 et seq. to regulate the massage industry.

"CAMTC Certificate" shall mean a current, valid and authentic certificate issued by the California Massage Therapy Council to a massage therapist.

"City" shall mean the City of Murrieta.

"Couples massage" shall mean a massage performed by two (2) massage therapists to two (2) persons in the same room at the same time within a massage establishment or massage accessory use business that possesses a current, valid and authentic couples massage permit.

"Couples massage permit" shall mean a permit issued by the city to perform a couples massage as required by this

chapter.

"Existing massage business/establishment/ therapist" shall mean any massage business, massage establishment or massage therapist, as applicable, as those terms are defined by this chapter, legally operating or established in the city as of October 2, 2021, that continuously operates in the city with a current, valid and authentic business license issued by the city and all other necessary approvals, and that operates in compliance with all local, state and federal laws, ordinances, rules and regulations.

"Health Department" shall mean the Department of Public Health and/or the Department of Environmental Health of the County of Riverside.

"Inspector" shall mean anyone employed with the City's Building and Safety Division, Code Enforcement Division, Fire Department, Police Department and/or City Attorney's Office who may conduct an inspection of a massage business pursuant to this chapter.

"Manager" shall mean any person(s) designated by the owner or operator of the massage business to act as the representative and agent of the owner and operator in managing the day-to-day operations of the massage business with the same liabilities and responsibilities as the owner and operator.

"Massage" shall mean the scientific manipulation of the soft tissues and any method of pressure on, friction against, channeling energy through, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external parts of the body, or other methods designed to create similar effects, to produce increased awareness, relaxation, pain relief, injury rehabilitation, or neuromuscular re-education. Regulations under this municipal code apply to all forms of massage, whether or not it is called massage and whether or not the massage is performed with the patron fully clothed, with or without the hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances, or with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice. For purposes of this definition, the terms "massage," "massage therapy," "bodywork," or any other terms used within the massage industry shall have the same meaning. To "perform massage" shall mean the act of performing, providing, offering, delivering, dispensing, engaging in, or carrying on, or permitted to be performed, provided, offered, delivered, dispensed, engaged in, or carried on massage for any form of consideration whatsoever. Examples of massage include, but are not limited to, Swedish massage, sports massage, shiatsu, polarity therapy, rolfing, heller work, reiki, and reflexology. Massage does not include contact with specified anatomical areas, as defined by and prohibited under this municipal code.

"Massage accessory use" shall mean any establishment having a fixed place of business within the city where any person performs massage either permanently or temporarily in conjunction with a primary permitted land use, and the area where the massage occurs covers less than twenty percent (20%) of the gross square footage of the primary permitted land use. Massage accessory use shall be required to obtain a massage accessory use permit and shall be subject to the massage operating requirements under Chapter 5.18 and Title 16, unless expressly exempted.

"Massage accessory use permit" shall mean a permit issued by the city to operate a massage accessory use as required by this chapter.

"Massage business" shall mean any massage business authorized to operate in the city pursuant to this chapter, including massage accessory use, massage establishment, outcall massage, and residential massage establishment businesses, as those terms are defined by this section.

"Massage establishment" shall mean any establishment having a fixed place of business located within the city where any person performs massage. A massage establishment shall be required to obtain a massage establishment permit and shall be subject to the massage operating requirements under Chapter 5.18 and Title 16 of this municipal code.

"Massage establishment permit" shall mean a permit issued by the city to operate a massage establishment as required by this chapter.

"Massage therapist" shall mean any person who performs massage on another person for any form of consideration whatsoever. For purposes of this definition, the terms "massage therapist," "massage practitioner," or any other terms used within the massage industry shall have the same meaning.

"Operator" shall mean any person who supervises, manages, directs, organizes, controls, or in any other way is responsible for or in charge of the daily operations, conduct or activities of a massage business.

"Outcall massage" shall mean massage performed by a massage therapist employed by a massage establishment or massage accessory use location at any location other than the operational address of the massage establishment or massage accessory use location identified on the massage establishment permit or massage accessory use permit. For purposes of this definition, the term "off-premises massage", "mobile massage", or any other terms used within the massage industry shall have the same meaning.

"Outcall massage permit" shall mean a permit issued by the city to perform outcall massage as required by this chapter.

"Owner" shall mean any of the following:

- A. The sole practitioner of a sole proprietorship that owns a massage business;
- B. Any general partner of a general limited partnership that owns a massage business;

- C. Any person who has five percent (5%) or greater ownership interest in a corporation that owns a massage business;
- D. Any person who is a member of a limited liability company that owns a massage business;
- E. All owners of any other type of business entity that owns a massage business; or
- F. Any person identified as an owner on a massage establishment permit or any other license, permit or entitlement issued by the city to operate a massage business.

"Permit" shall mean any permit or license issued by the city pursuant to this chapter relating to operating a massage business.

"Person" shall mean any natural person, firm, association, business, trust, organization, partnership, corporation, company, joint venture, or any other entity or combination of individuals of whatever form or character.

"Residential massage establishment" shall mean a massage establishment legally operating in a residence in the city as of October 2, 2021, that continuously operates in the residence with a current, valid and authentic massage establishment permit, business license and home occupation permit issued by the city, and all other necessary approvals, and that operates in compliance with all local, state and federal laws, ordinances, rules and regulations.

"Residential massage establishment permit" shall mean a permit issued by the city to operate a residential massage establishment as required by this chapter.

"Specified anatomical area" shall mean any of the following areas of the human body: pubic region, human genitals, perineum, anal region, and the female breasts. (Ord. 565-21, Exhibit A (part), 2021)

#### **5.18.040 Massage, general requirements.**

##### **A. CAMTC Certificate required.**

1. Massage therapist. Except as otherwise provided in this chapter, it shall be unlawful for any person to perform massage, whether as full-time, part-time or temporary status, as an employee, sole practitioner, or independent contractor of a massage business, or in any other capacity within the jurisdiction of the city, unless that person possesses a current, valid and authentic CAMTC Certificate.

2. Massage business. Except as otherwise provided in this chapter, it shall be unlawful for any massage business to operate within the jurisdiction of the city, unless all persons utilized by the massage business to perform massage, whether as full-time, part-time or temporary status, as an employee, sole practitioner, or independent contractor, or otherwise, possess a current, valid and authentic CAMTC Certificate.

B. City business license required. All massage businesses must obtain a city business license pursuant to Chapter 5.04 of this municipal code.

C. Independent contractors. Any independent contractor(s) utilized by a massage business to perform massage must obtain a city business license and must provide a current valid, and authentic CAMTC Certificate to the city prior to performing massage.

D. Permit issuance. Except as otherwise provided in this chapter, the procedures to follow to obtain a permit under this chapter are those set forth in the uniform licensing procedures under Chapter 5.04 of this municipal code. Any permit issued pursuant to this chapter shall be issued by the Chief of Police, or his or her designated representative, and shall be valid for a period of one (1) year from the date of such issuance. The Chief of Police, or his or her designated representative, shall have the authority to review the requirements contained in the permit application and renewal application forms, and modify the applications, as necessary.

E. Existing massage businesses/therapists. Unless expressly exempted by this chapter, the provisions of this chapter shall be applicable to all massage businesses and massage therapists described herein, whether or not the activities herein described were established before or after October 2, 2021. Any existing massage business/therapist must be in full compliance with the applicable requirements of this chapter and Title 16 of this municipal code no later than October 2, 2021.

(Ord. 565- 21, Exhibit A (part), 2021)

#### **5.18.050 Massage business permits.**

This section shall apply to the issuance or renewal of any permit issued pursuant to this chapter.

A. Permit application. An application for a permit shall be filed on a form provided by the city, shall be signed and submitted under penalty of perjury, and shall include the appropriate filing fee. A permit application shall include the following information, which must be updated when there is any personnel change to ensure that the city has current information on file at all times relating to the massage business; the owners, operators and managers of the massage business; and all massage therapists who perform massage or who will perform massage for the massage business, as applicable:

1. Legal name of the massage business.
2. Form of business under which the massage business will operate (i.e. corporation, limited liability company, general or limited partnership, sole proprietorship, or any other form).

3. Address of the massage business.

4. Legal name, address and telephone number of the real property owner of the premises at which the massage business will operate, and an executed copy of any lease or rental agreement for the premises.

5. Complete description of all services to be provided by the massage therapists.

6. Legal name of all massage therapists who will perform massage for the massage business, and a copy of their current, valid and authentic CAMTC Certificates. The legal name of any massage therapist hired after the submittal of an application must be reported to the city prior to the massage therapist performing any massage for the massage business.

7. Legal name of all owners, operators and managers of the massage business.

8. Current residential address and telephone number, previous two residential addresses, and current business address and telephone number of all owners, operators and managers of the massage business.

9. Current, valid and authentic driver's license and/or photo identification card issued by a state or federal government agency, or other photographic identification bearing a bona fide seal by a foreign government, of all owners, operators and managers of the massage business.

10. Date of birth, gender, height, weight, color of hair, and color of eyes of all owners, operators and managers of the massage business.

11. Signed statement by each owner, operator and manager of the massage business who does not possess a current, valid and authentic CAMTC Certificate, authorizing the Police Department to conduct a background check of that individual, and including the following: (i) any and all aliases and fictitious names used by the individual within the last five (5) years; (ii) the individual's business, occupation and employment history for the last five (5) years; (iii) the inclusive dates of such employment history; (iv) the name and address of any massage business or similar business owned, operated or managed by the individual; and (v) any other information as may be reasonably required to identify the individual and to ensure compliance with all applicable laws, rules and regulations.

12. Signed statement by each owner, operator and manager of the massage business acknowledging the following: (i) all of the information contained in the permit application is true and correct; (ii) all owners, operators and managers are familiar with the requirements of this chapter and all applicable requirements of Title 16 of this municipal code, and shall communicate those requirements to employees of the massage business, and also to patrons of the massage business on inquiry or as called for by specific circumstances; (iii) all owners, operators and on-duty managers are responsible for the massage business and the conduct of all persons who perform massage for the massage business, and ensuring compliance with this chapter and all applicable requirements of Title 16 of this municipal code; (iv) any act or omission of any employee of the massage business constituting a violation of any provision of this chapter and all applicable requirements of Title 16 of this municipal code shall be deemed to be an act or omission of the owner, operator and on-duty manager for purposes of determining whether to suspend or revoke a permit and/or a city business license, or deny the renewal of a permit and/or a city business license; and (v) failure to comply with Business and Professions Code section 4600 et seq., or with any local, state or federal laws, rules or regulations and/or the provisions of this chapter and all applicable requirements of Title 16 of this municipal code may result in the suspension, revocation or non-renewal of a permit and/or a city business license.

13. Proof of insurance provided by an insurance company authorized to do business in the State of California evidencing that the massage business and all massage therapists performing massage for the massage business, are insured under a liability insurance policy providing minimum coverage of two million dollars (\$2,000,000) for personal injury or death to any person arising out of or in connection with the operation of any massage business and the performance of massage for the massage business. All massage businesses must comply with the requirements of California Labor Code section 3700 et seq. Such insurance required by this subdivision shall remain in full force and effect at all times throughout the operation of the massage business.

B. Permit renewal application. An annual permit renewal application shall be required for any permit issued pursuant to this chapter. Renewal applications shall be filed on a form provided by the city no later than thirty (30) days prior to the expiration date of an existing permit, shall be signed and submitted under penalty of perjury, and shall include the appropriate renewal filing fee. Renewal applications shall include updated information to the information required under subdivision (a) of this section when there is any personnel change to ensure that the city has current information on file at all times relating to the massage business, the owners, operators and managers, and all massage therapists who perform massage or who will perform massage for the massage business.

C. Approval or denial of permit. The city shall issue a permit or renewal permit, as applicable, upon demonstration of the following:

1. The massage business, the owners, operators and managers, and all massage therapists who perform massage or who will perform massage for the massage business would comply with all applicable laws, including, but not limited to, the city's building, fire, zoning, land use approvals, business license regulations; applicable Health Department regulations; and all other applicable local, state and federal health, zoning, fire and safety laws, rules, requirements, standards, and regulations, including, but not limited to, the California Building Standards Code and the California Fire Code.

2. The massage business employs or uses only massage therapists to perform massage who possesses a current, valid and authentic CAMTC Certificate.

3. The owners, operators and managers of the massage business have provided all information, documentation, and assurances required by this chapter and all applicable requirements of Title 16 of this municipal code to the city; have not failed to reveal any fact material as to qualification; and have not supplied information that is untrue or misleading as to a material fact pertaining to the qualification criteria.

4. The background check for any owners, operators and managers authorized by this chapter shows that such owners, operators and managers have not been required to register under the provisions of Penal Code section 290 (sex offender registration); have not been convicted of a violation of Penal Code sections 266(h) (pimping), 266(i) (pandering), 314 (indecent exposure), 315 (keeping or residing in a house of ill-fame for the purposes of prostitution or lewdness), 316 (keeping a disorderly house, disturbing the peace for the purposes of assignation or prostitution), 318 (prevailing upon any person to visit a place for prostitution), 647(a) (soliciting prostitution), 653.22 (loitering with intent to commit prostitution), 653.23 (supervision of prostitute), or have not pled nolo contendere or have not been convicted of a violation of any lesser related offense, including, but not limited to, Penal Code section 415, in satisfaction of, or as a substitute for, any of the aforementioned offenses; have not been convicted of any felony drug-related offense involving the controlled substance specified in Health and Safety Code sections 11054, 11055, 11056, 11057 or 11058; have not been convicted of any act involving theft, dishonesty, fraud, deceit or moral turpitude; have not been convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the aforementioned offenses; have not had an individual or business permit, certificate or license with any agency, board, city, county, territory or state-denied, revoked or suspended within the last ten (10) years; and have not been subject to an injunction for nuisance under Penal Code sections 11225 through 11235 (red light abatement) within the last ten (10) years.

(Ord. 565-21, Exhibit A (part), 2021)

#### **5.18.060 Existing residential massage establishments.**

An existing massage business operating as a residential massage establishment in the city as of October 2, 2021, shall be considered a legal, non-conforming use, and may continue to operate so long as there is no lapse in the timely renewal of a city business license and/or residential massage establishment permit. A residential massage establishments must comply with all of the following requirements:

A. Maintain a home occupation permit issued by the city and comply with the home occupation permit requirements under Chapter 16.60;

B. The massage operations shall be purely incidental and secondary to the location's primary use as a residential dwelling unit;

C. The operator of the residential massage establishment must reside at the residence and may not employ any persons other than immediate family members;

D. All materials or mechanical equipment utilized by the residential massage establishment must be of a type normally associated with household or hobby use;

E. No products shall be for sale or sold at a residential massage business, unless the residential massage business obtains an appropriate vending or sales permit from the County of Riverside;

F. Pedestrian and vehicular traffic generated by the residential massage establishment must be consistent with the location of the residential dwelling unit;

G. All general sign regulations applicable in the residential land use district in which a residential massage establishment is located shall apply at a residential massage establishment; and

H. Massage must be provided in a facility separate from any living quarters. Business access to a residential massage establishment shall be separate from residential access and must comply with the requirements applicable to massage establishments, generally.

I. A residential massage establishment and all massage therapists who perform massage at the residential massage establishment must comply with the massage operating requirements under Section 5.18.090, unless expressly exempted.

(Ord. 565-21, Exhibit A (part), 2021)

#### **5.18.070 Couples massage permit.**

A couples massage may be performed at a massage establishment or massage accessory use business pursuant to compliance with all of the following requirements:

A. The massage business where the couples massage is performed must obtain a couples massage permit. A copy of the couples massage permit shall be posted in the room where the couples massage takes place at the massage business.

B. An Inspector may inspect the massage business where the couples massage will take place to determine whether the location meets the requirements of this section and all other requirements imposed by this chapter and all applicable requirements of Title 16 of this municipal code prior to the issuance of a couples massage permit.

C. A couples massage may only be performed in a room of at least 100 (one hundred) square feet in size.

D. Two (2) massage tables must be present in the room where the couples massage takes place and only one (1) patron

is allowed to receive a massage on each table.

E. A massage business and all massage therapists who perform couples massage at the massage business must comply with the massage operating requirements under Section 5.18.090, unless expressly exempted.

(Ord. 565-21, Exhibit A (part), 2021)

#### **5.18.080 Outcall massage.**

Outcall massage may be performed pursuant to compliance with all of the following requirements:

A. A massage establishment or massage accessory use business permitted to perform outcall massage services must obtain an outcall massage permit. A copy of the outcall massage permit shall be posted at the massage establishment or massage accessory use business.

B. Any massage performed at an outcall massage location must be booked by a massage establishment or massage accessory use business. Massage therapists shall not perform any massage at any location other than the location booked by the massage establishment or massage accessory use business with which the massage therapist is affiliated.

C. No massage business will be permitted to operate solely as an outcall massage service.

D. Outcall massage services may comprise no more than forty percent (40%) of the annual proceeds generated by a massage establishment or massage accessory use.

E. No outcall massage may be performed at a commercial establishment, other than at the patron's own place of business.

F. Any violation of this chapter by a massage therapist performing outcall massage may result in the suspension, revocation or non-renewal of the massage establishment permit or massage accessory use permit with which the massage therapist is affiliated.

G. An outcall massage and all massage therapists who perform outcall massage for the massage establishment or massage accessory use, as applicable, must comply with the massage operating requirements under Section 5.18.090, unless expressly exempted.

(Ord. 565-21, Exhibit A (part), 2021)

#### **5.18.090 Massage operating requirements.**

No person shall engage in, conduct, carry on or perform, or permit to be engaged in, conducted, carried on or performed, massage within the jurisdiction of the city unless all of the following requirements are met, and the person is in compliance with all applicable provisions of Title 16 of this municipal code.

A. CAMTC Certificate to city. No owner, operator or manager shall operate a massage business unless a copy of a current, valid and authentic CAMTC Certificate is provided to the city for each massage therapist employed or utilized to perform massage for the massage business, prior to performing any massage.

B. CAMTC certificate posed in public view. No owner, operator or manager shall operate a massage business unless a copy of a current, valid and authentic CAMTC Certificate is posted in public view for each massage therapist employed or utilized to perform massage for the massage business.

C. CAMTC identification card worn at all times. No owner, operator or manager shall operate a massage business unless an original CAMTC-issued identification card is worn and clearly visible on each massage therapist employed or utilized to perform massage for the massage business, at all times while on-site at the massage business or at any location where an outcall massage or residential massage is performed, whether or not the massage therapist is performing massage.

D. Owner, operator or manager on-site. An owner, operator or manager approved by the city must be on the premises of the massage business at all times during business hours. The name of the designated owner, operator or manager on-duty shall be posted in an open and conspicuous public place in the lobby/reception area of the massage business, and updated on a daily basis.

E. Prohibited locations. No massage shall be performed in a short-term vacation rental, hotel or motel room, vehicle, or in the private residence of the massage therapist performing massage. Existing residential massage establishments shall be permitted to perform massage in the private residence of the massage therapist.

F. Hours of operation. Massage shall be performed only between the hours of 7:00 a.m. and 9:00 p.m. no massage shall be performed between the hours of 9:00 p.m. and 7:00 a.m. Hours of operation must be displayed in an open and conspicuous public place in lobby/reception area of the massage business and in a location clearly visible from the outside of the massage business.

G. List of services. A list of the services available and the costs of such services shall be posted in an open and conspicuous public place in the lobby/reception area of the massage business. The services shall be described in English. No owner, operator or manager shall permit to be offered or performed, and no massage therapist shall offer or perform, any service other than those posted on the list of available services, nor shall any owner, operator, manager, or massage therapist request or charge a fee for any service other than those included on the list of available services.

H. Massage log. For each massage performed, the massage business shall keep a complete and legible written record of the following information stated in English on a form provided by the city, as may be updated from time to time by the city, or by some other method that provides substantially the same information as required by this subdivision: (i) the date and hour the massage was performed; (ii) the service received; (iii) the name of the massage therapist performing the massage; and (iv) the address where services were provided for outcall massage. Such records shall be retained on the premises of the massage business for a period of not less than two (2) years, and shall be available for inspection and copying by an Inspector during business hours.

I. Signage. A recognizable and legible sign complying with the sign regulations of this municipal code (Refer to Chapter 16.38 (Sign Standards) for further details) shall be posted at the main entrance of each massage establishment identifying the premises as a massage establishment. The signage shall not be illuminated by strobe or flashing lights. This subdivision shall not apply to massage accessory use, existing residential massage establishment, or outcall massage businesses.

J. Lighting. A minimum light level of no less than five (5) foot candles at any point within the room shall be maintained in each room or enclosure where massage is performed.

K. Lavatories, bathing facilities, saunas, steam/heat/vapor rooms.

1. Lavatories shall be provided for patrons with hot and cold running water, soap and single service towels in wall-mounted dispensers or electric hand dryers, and a trash receptacle.

2. All walls, floors and ceilings in lavatories, bathing facilities, saunas, steam/heat/vapor rooms, and all other physical facilities must be kept in good repair and maintained in a clean and sanitary condition.

3. Steam/heat/vapor rooms shall be thoroughly cleaned and disinfected each day that the massage business is in operation.

4. Walls in lavatories, bathing facilities, saunas, and steam/heat/vapor rooms shall be smooth and waterproof.

5. Floors in lavatories, bathing facilities, saunas, and steam/heat/vapor rooms shall have a waterproof covering that extends up the walls at least six (6) inches and shall be covered at the floor-wall juncture with at least a three-eighths (3/8) inch radius.

6. Separate bathing facilities, saunas, and steam/heat/vapor rooms shall be provided for male and female patrons if male and female patrons are to be served simultaneously.

L. Massage table, table pads. A massage table shall be provided in each room at a massage business where massage is performed. Massage may only be performed on a massage table with a minimum height of eighteen (18) inches. Massage table pads up to two (2) inches thick with a maximum width of four (4) feet may be used on a massage table and must be covered with durable, washable plastic or other waterproof material. A massage table or pad used for an outcall massage must be inspected and approved by the Police Department before use.

M. Linens. Towels, sheets and linens of all types and items for personal use of massage therapists shall be clean and freshly laundered. Towels, clothes, and sheets shall not be used by more than one (1) person unless the same has first been laundered. Heavy white paper may be substituted for sheets provided that such paper shall not be used by more than one (1) person and must be discarded into a sanitary receptacle after such use.

N. Storage cabinets, containers for linens. Cabinets shall be provided for the storage of clean linens. Containers shall be provided for the storage of all soiled linens.

O. Sterilized instruments. Disinfecting agents and sterilizing equipment shall be provided for any instruments used to perform massage.

P. Ventilation. Minimum ventilation shall be provided in accordance with the building code of the city.

Q. Plumbing and electrical. All plumbing and electrical installations shall be installed under permit in accordance with current local, state and federal laws, rules and regulations, and be subject to inspection by the Inspector.

R. Exterior windows and doors. No massage business located in a building or structure with exterior windows and/or doors facing a public street, highway, walkway, or parking area shall block visibility into the interior reception area through the use of curtains, screens, closed blinds, tints or any other material that obstructs, blurs or unreasonably darkens the view into the premises. This subdivision shall not apply to existing residential massage establishments or outcall massage.

S. Unlocked exterior doors. No exterior door which is regularly used by the public for ingress or egress shall be locked during business hours, unless the massage business is owned by only one (1) individual with one (1) or no employees or independent contractors, provided that any such exterior door is equipped with panic hardware or other similar equipment that would provide an accessible form of egress in the event of an emergency.

T. Inspection of unoccupied rooms and areas. All unoccupied rooms and areas shall be subject to reasonable inspection during business hours.

U. Access to massage businesses. No person, other than an employee of the massage business reported to the city pursuant to this chapter, shall be allowed in the massage business other than the lobby/reception area during business hours.

V. Specified anatomical areas.

1. No owner, operator, manager, or massage therapist shall perform massage on or intentionally touch, or permit the performance of massage on or intentional touching of, the specified anatomical areas of another person, regardless of whether the contact is over or under the patron's clothing.

2. No owner, operator, manager, or massage therapist shall enter any area of the massage business which is used by the patrons, unless the patron's specified anatomical areas are fully covered, except to use the lavatory or dressing room.

W. Professional attire. No owner, operator or manager shall permit any massage therapist to be on the premises of a massage business during business hours to perform massage or be available to perform massage, and no massage therapist may perform massage unless the massage therapist is dressed in professional attire based on the custom and practice of the massage profession in California. The uniform shall be made of non-transparent material and may not expose any specified anatomical area. Swim attire, lingerie and undergarments may not be used as a uniform or displayed as a part of a uniform. Appropriate swim attire may be worn while performing a water-based massage modality approved by CAMTC.

X. No residential use. No massage business shall be used for residential purposes. No owner, operator or manager shall permit any person, including but not limited to any owner, operator, manager, or massage therapist to live on the premises of a massage business. This subdivision shall not apply to existing residential massage establishments or outcall massage.

Y. No school use. No massage business shall operate as a massage school, or use the same facilities as that of a massage school to operate a massage business.

Z. Alcohol and drugs prohibited. Service, consumption and use of alcoholic beverages, drugs, and other controlled or intoxicating substances, including cannabis, is prohibited at any massage business or at any location where an outcall massage or residential massage is performed, unless legally permitted pursuant to the provisions of this municipal code applicable to the commercial service of alcohol, including Section 16.44.030, and in compliance with all other local, state, and federal laws, rules and regulations. No person shall otherwise enter, be in or remain in any part of a massage business while in possession of, consuming, using, or under the influence of any alcoholic beverage, drug, or other controlled or intoxicating substance, including cannabis.

AA. Communicable diseases. Massage may not be performed on any person while that person has a communicable disease that may be transmitted by the performance of massage. Massage may not be performed by a massage therapist while the massage therapist has a communicable disease that may be transmitted by the performance of massage.

BB. Contraception devices prohibited. No contraception devices (e.g., condoms or other prophylactics) shall be possessed by any massage therapist while on premises of the massage business or at any location where an outcall massage or residential massage is performed.

CC. Sex devices prohibited. No device, the primary purpose of which is for sexual stimulation, shall be sold, utilized or be present at any time at a massage business or at any location where an outcall massage or residential massage is performed.

DD. Food. No food shall be prepared for sale or sold at a massage business or at any location where an outcall massage or residential massage is performed, unless the massage business obtains an appropriate food vending or sales permit from the County of Riverside.

EE. Parking. Required parking shall be provided on-site consistent with Chapter 16.34 (Off-Street Parking and Loading Standards).

FF. Refuse and recycling. Refuse and recycling containers shall be provided on-site for operations, consistent with state and city requirements. See Section 16.18.150 (Solid Waste/Recyclable Materials Storage) for requirements.

(Ord. 565-21, Exhibit A (part), 2021)

#### **5.18.100 Advertising.**

A. All advertising to perform massage by any massage therapist within the jurisdiction of the city shall include the name of the massage therapist and their CAMTC Certificate number. This requirement shall apply to any and all types of advertising, including, but not limited to, business cards, written pamphlets, social media, and internet websites, including online bulletin boards.

B. All advertising to perform massage at any massage business within the jurisdiction of the city shall include the name of the massage business and the city business license number. This requirement shall apply to any and all types of advertising, including, but not limited to, business cards, written pamphlets, social media, and internet websites, including online bulletin boards.

C. No person, massage therapist or massage business shall engage in sexually suggestive advertising, including sexually suggestive photographs and language, related to massage services.

D. No person, massage therapist or massage business shall place, publish or distribute, or cause to be placed, published or distributed, any advertising matter related to performing any service prohibited by this chapter.

(Ord. 565-21, Exhibit A (part), 2021)

#### **5.18.110 Inspection by officials.**



The investigating and enforcing officials, including, but not limited to, any Inspector and the Health Department, shall have the right to enter the premises of any massage business from time to time during business hours for the purpose of making a reasonable inspection to observe and enforce compliance with the provisions of this chapter, all applicable requirements of Title 16 of this municipal code and all other applicable local, state and federal laws, rules and regulations.

(Ord. 565-21, Exhibit A (part), 2021)

#### **5.18.120 Violation and penalty.**

Every person, except those persons who are specifically exempt from this chapter, whether acting as an individual, employee, independent contractor, owner, operator, manager, or acting in any other role for the individual, employee, independent contractor, owner, operator or manager, who violates any provision of this chapter or applicable requirements of Title 16 of this municipal code shall be guilty of a misdemeanor. Upon a conviction under this section, the court shall, in addition to any other punishments it imposes, impose a fine of \$100 (one hundred dollars), no part of which shall be suspended.

(Ord. 565-21, Exhibit A (part), 2021)

#### **5.18.130 Public nuisance.**

It shall be unlawful and a public nuisance for any person to operate, conduct or maintain a massage business contrary to the provisions of this chapter and all applicable requirements of Title 16 of this municipal code. The city may, in addition to, or in lieu of, prosecuting a criminal action hereunder, commence proceedings for the abatement, removal and/or enjoinder thereof in any manner provided by law.

(Ord. 565-21, Exhibit A (part), 2021)

#### **5.18.140 Denial, suspension and revocation of permits.**

A. Grounds. In addition to the grounds for denial, suspension or revocation imposed under Chapter 5.04 of this municipal code, a permit issued by the city under this chapter, and/or city a business license issued by the city may be denied, suspended or revoked upon any of the following grounds:

1. An owner, operator or manager of the massage business is required to register under the provisions of Penal Code section 290 (sex offender registration); is convicted of a violation of Penal Code section 266(h) (pimping), 266(i) (pandering), 314 (indecent exposure), 315 (keeping or residing in a house of ill-fame for the purposes of prostitution or lewdness), 316 (keeping a disorderly house, disturbing the peace for the purposes of assignation or prostitution), 318 (prevailing upon any person to visit a place for prostitution), 647(a) (soliciting prostitution), 653.22 (loitering with intent to commit prostitution), 653.23 (supervision of prostitute), or has pled nolo contendere or has been convicted of a violation of any lesser related offense, including, but not limited to, Penal Code section 415, in satisfaction of, or as a substitute for, any of the aforementioned offenses; have not been convicted of any felony drug-related offense involving the controlled substance specified in Health and Safety Code sections 11054, 11055, 11056, 11057 or 11058; has been convicted of any act involving theft, dishonesty, fraud, deceit or moral turpitude; has an individual or business permit, certificate or license with any agency, board, city, county, territory or State-denied, revoked or suspended; is subject to an injunction for nuisance under Penal Code sections 11225 through 11235 (red light abatement); or is convicted of any other offense which, if committed or attempted in this state, would have been punishable as one or more of the aforementioned offenses.

2. A material misrepresentation was included on the application for a permit, and/or city business license, renewal or transfer application.

3. Violations of California Business and Professions Code sections 4600 et seq., any local, state or federal laws, rules or regulations, and/or the provisions of this chapter or Title 16 of this municipal code have occurred on the premises of the massage business.

4. An owner, operator or manager of the massage business has failed to comply with one or more of the massage operating requirements under this chapter.

5. A massage therapist, owner, operator or manager of the massage business has failed to comply with the massage advertising requirements under this chapter and/or state law.

6. Any repeat violations or any arrests that result in criminal charges shall provide a prima facie basis for revocation.

7. A permit issued by the city that is not timely renewed shall be automatically suspended. To reinstate the status of a permit suspended pursuant to this subdivision, the owner or operator must submit a permit renewal application and filing fee, together with a reinstatement fee of ten percent (10%) of the filing fee, no later than thirty (30) days following the suspension date. Civil, criminal and/or administrative citations may also be issued for failure to maintain the permit. A permit that is not reinstated within thirty (30) days of the suspension date shall automatically expire and be deemed of no further force or effect. In that event, a new permit will be required to operate a massage business in the city, contingent upon city approval and subject to all applicable provisions of this chapter and Title 16 of this municipal code, including, but not limited to, any cap limitations and distance restrictions.

B. Appeal of denial, suspension or revocation. The appeal procedures for the denial, suspension or revocation of a permit shall be those set forth in Chapter 5.04 of this municipal code.

C. Prohibited operations. Upon revocation of a massage accessory use permit, massage establishment permit, residential massage establishment permit, and/or city business license pursuant to this chapter or any other provision of this municipal code, the permittee shall not operate a massage business within the jurisdiction of the city for a period of five (5) years from the date of such revocation. No massage accessory use permit, massage establishment permit, residential massage permit, and/or city business license that is revoked by the city may be transferred to any other person or entity.

D. Prohibition at same location. After a permit is revoked or not renewed for a violation of this chapter, the city will not issue a permit to operate a new massage business at the same location for a period of five (5) years following the revocation or non-renewal of the permit.

(Ord. 565-21, Exhibit A (part), 2021)

#### **5.18.150 Exemptions.**

The requirements of this chapter shall not apply to the following classes of persons, and no permit required under this chapter shall be required of such persons, while engaged in the performance of the duties of their respective professions:

A. Physicians, surgeons, chiropractors, osteopaths, podiatrists, physical therapists, occupational therapists, exercise physiologists, and acupuncturists who are licensed to practice under the laws of the State of California.

B. Registered nurses, practical nurses, or licensed vocational nurses who are licensed or registered to practice under the laws of the State of California.

C. Hospitals, nursing homes, mental health facilities, or any other health facility licensed under the laws of the State of California.

D. Athletic trainers of any amateur, semiprofessional or professional athletes or teams, or athletic trainers hired by a local, state or federal government entity, while engaging in their training responsibilities for and with athletes; and trainers working in conjunction with a specific athletic event, such as track meets, triathlons, or similar single occurrence athletic events.

E. Barbers, beauticians, cosmetologists, aestheticians, and manicurists who are licensed under the laws of the State of California.

F. Any educational institution licensed and regulated by the State of California, including any portion of the institution providing massage, such as student clinics and work study programs.

G. Any other business or profession exempt from the provisions of this chapter by state law.

(Ord. 565-21, Exhibit A (part), 2021)

#### **5.18.160 Fee modification and allocation.**

The City Council shall establish, by resolution, the nonrefundable permit application and nonrefundable permit annual renewal fees for each permit issued pursuant to this chapter. The appropriate fee shall accompany the submission of each permit application, or renewal application, as applicable, to defray in part the reasonable costs of the administration, inspection, investigation, and enforcement of this chapter and all applicable requirements of Title 16 of this municipal code. Such fees shall be:

A. Reviewed annually and adjusted, as necessary, by the City Manager, or his or her designated representative, to determine whether such fees are adequate to cover the costs of implementing the provisions of this chapter and all applicable requirements of Title 16 of this municipal code.

B. Deposited in the city's general fund to be allocated as determined by the city.

C. Paid in addition to any other fees required under this municipal code.

(Ord. 565-21, Exhibit A (part), 2021)