

ORDINANCE NO. 19-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMECULA AMENDING CHAPTER 5.22, MASSAGE AND MASSAGE ESTABLISHMENTS, OF THE TEMECULA MUNICIPAL CODE AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

THE CITY COUNCIL OF THE CITY OF TEMECULA DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 5.22 (Massage and Massage Establishments) of Title 5 (Business Licenses and Regulations) of the Temecula Municipal Code is hereby amended in full to read as follows:

- “5.22.010: Purpose and authority.**
- 5.22.020: Definitions.**
- 5.22.030: CAMTC certification required.**
- 5.22.040: Massage establishment permit required.**
- 5.22.050: Maximum number of massage establishments.**
- 5.22.060: Application for massage establishment permit.**
- 5.22.070: Massage establishment permit issuance and denial.**
- 5.22.080: Requirements applicable to the operation of massage establishments.**
- 5.22.090: Requirements applicable to the operation of outcall services.**
- 5.22.100: Transfers and changes of business.**
- 5.22.110: Fees.**
- 5.22.120: Exemptions.**
- 5.22.130: Duration and renewal of permits.**
- 5.22.140: Revocation, permit denial and appeal.**
- 5.22.150: Violation and penalty.**
- 5.22.160: Application to existing businesses.**

5.22.010 Purpose and authority.

It is the purpose and intent of this Chapter to protect the health, safety and welfare of the citizens of the City, while recognizing massage as a legitimate business interest that provides benefits to its patrons in a therapeutic setting.

The California State Legislature has implemented uniform statewide regulations pertaining to individuals who are certified by the California Massage Therapy Council, 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”), which created a statewide system for issuing certificates to massage therapists and massage practitioners.

The City is authorized to regulate massage establishments pursuant to the State Constitution and provisions of Government Code §§ 37100, 51030. *et seq.*, and Business and Professions Code §§

460, 16000, 4600 through 4621. This Chapter provides certain minimum standards for the operation of massage establishments, their managing employees, and massage therapists and massage practitioners.

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 an opportunity for acts of prostitution and other unlawful sexual activity. Courts have long recognized massage as a closely and pervasively regulated activity and that some massage establishments are brothels in disguise.

The City Council recognizes that massage establishments may have a serious deleterious effect upon adjacent areas, as well as the areas in which they are located, when illegal activities such as pandering or prostitution can occur. The City Council understands that illegal activities occurring in massage establishments often incorporate the exploitation of women and new immigrants to this country. Over the last few years, there have been numerous news articles linking some massage establishments throughout the country with human trafficking operations.

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. Reasonable standards for issuance of permits and restrictions on massage operations will serve to reduce the risk of illegal activity and would thereby benefit the public health.

5.22.020 Definitions.

Unless the particular provision of the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning and application of words and phrases used in this Chapter.

“Applicant” means an owner or operator filing an application for a massage establishment permit.

“CAMTC” means the California Massage Therapy Council created by Business and Professions Code Sections 4600, *et seq.*, or any other subsequently created State organization or entity that regulates massage therapists.

“CAMTC Certificate” means a current and valid certificate issued by the CAMTC to a massage practitioner or massage therapist.

“Chief of Police” means and includes the captain of the Riverside County Sheriff’s Department currently designated by the sheriff as the command officer responsible for the City of Temecula, or any other representative as designated by the City Manager.

“City” means the City of Temecula.

“City Council” means and includes the City Council of the City of Temecula.

“City Manager” means and includes the City Manager of the City of Temecula or his or her designated representative.

“Compensation” means the payment, loan, advance, donation, contribution, deposit, exchange, or gift of money or anything of value.

“Conviction” or “convicted” means and includes a conviction following a plea or verdict of guilty, or plea of *nolo contendere* (*no contest*).

“Days” means and includes calendar days, unless otherwise specifically stated in the text.

“Employ” means and includes the act of employing employees and/or contracting with independent contractors.

“Employee” means and includes every owner, partner, manager, supervisor, and any other person, whether paid or not, who renders massage services, or engages in activities that further massage services, of any nature in connection with the operation of a massage establishment, or upon the premises of a massage establishment. The term Employee shall also include massage professionals who provide massage services, whether as independent contractors or otherwise, in or for a massage establishment. Employee also includes receptionists, janitorial staff, and any other person who works at the massage establishment.

“Manager” or “on duty manager” means and includes the person(s) designated by the owner or operator of the massage establishment, to act as the representative and agent of the owner or operator in managing day-to-day operations with the same liabilities and responsibilities. Evidence of management includes, but is not limited to, evidence that the individual has power to direct or hire and dismiss employees, control hours of operation, create policy or rules or purchase supplies. A manager may also be an owner or operator.

“Massage” means the scientific manipulation of the soft tissues of the human body.

“Massage establishment” means a fixed location where massage is performed for compensation, excluding those locations where massage is only provided on an out-call basis.

“Massage practitioner” means a person who is currently certified as a massage practitioner by the CAMTC in accordance with Business and Professions Code Section 4604.2 and who administers massage for compensation.

“Massage professional” means a massage practitioner or massage therapist.

“Massage therapist” means a person who is currently certified by the CAMTC pursuant to Business and Professions Code Section 4604 and who administers massage for compensation.

“Operator” means and includes any owner or other person who operates a massage establishment.

“Outcall massage” means any massage performed or administered for compensation by a state certified massage professional at a location in the City other than at a massage establishment.

“Owner” means and includes any person (1) whose name appears on the City business license for a massage establishment or (2) who has any ownership interest in a massage establishment including, but not limited to, any of the following Persons: the sole proprietor of a sole proprietorship; any general or limited partner of a general or limited partnership; any person who has a five percent or greater ownership interest in a corporation that owns a massage establishment; any member or manager of a limited liability company; or any person who has an ownership interest in any other type of business association that owns a massage establishment.

“Permit” means a massage establishment permit issued pursuant to this Chapter.

“Permit holder” means any owner of a massage establishment that has obtained a permit to operate within the City pursuant to Section 5.22.070.

“Person” means and includes any individual, firm, corporation, partnership, association or other group or combination of individuals of whatever form or character.

“Police department” means and includes the Riverside County Sheriff’s Department, acting pursuant to its law enforcement contract with the City of Temecula, or any other law enforcement agency designated by the City Manager.

“Property” means the premises where the massage establishment is located. If the massage establishment is located within a commercial complex, property does not mean the entire complex but rather the specific suite where the message establishment is located.

“Recognized school of massage” means any school or institution of learning that is recognized as an approved school pursuant to Business and Professions Code Division 2, Chapter 10.5, as currently drafted or as may be amended.

5.22.030 CAMTC certification required.

A. It shall be unlawful for any person to provide massage for compensation within the City unless that person is a massage professional in good standing and is certified by the CAMTC.

B. It shall be unlawful for a massage establishment to employ or retain any person to provide massage for compensation, including any outcall massage, unless that person is a massage professional in good standing and is certified by the CAMTC.

5.22.040 Massage establishment permit required.

A. It is unlawful for any person to engage in, operate, conduct or carry on, in or upon any premises, a massage establishment without first obtaining a massage establishment permit pursuant to this Chapter, securing the necessary business license as required by this code, and complying with Title 5 of this code. A separate permit shall be obtained for each separate massage establishment operated by such person.

B. A permit to operate a massage establishment shall be valid for a period of one year and shall expire in conjunction with the business license.

5.22.050 Maximum number of massage establishments.

A. The maximum number of massage establishments within the City shall not exceed one (1) massage establishment per every 10,000 inhabitants of the City, with any fraction of that ratio being rounded down to the nearest whole number. For purposes of this section, the total number of inhabitants of the City shall be determined by the most current published data available from the California State Department of Finances, as of the date an application for a massage establishment permit is filed.

B. Subsection A above shall not apply to any athletic club, health club, school, gymnasium, state licensed cosmetology or barber establishment, reducing salon, day spa or similar establishment where massage or similar manipulation of the human body is offered as an ancillary service, and that (1) operates with a valid and current business license issued by the City, and (2) has a valid massage establishment permit if required by this Chapter. For purposes of this subsection, “ancillary service” shall be those services where less than 50% of the gross floor area of the business is devoted to massage. Restrooms, breakrooms, and lobby areas do not count towards the calculation of the gross floor area as set forth in this subsection; only the treatment rooms where massage is performed count towards the calculation of the gross floor area of the business that is devoted to massage.

C. If there is no lapse in the timely renewal of a City business license and permit as required under this Chapter, massage establishments operating with a valid and current business license and permit issued by the City as of August 1, 2019, and that operate in compliance with all local, State and Federal laws, ordinances, rules and regulations, may continue to operate in the City even if the number of massage establishments exceed the maximum number of massage establishments permitted in the City pursuant to subsection A above.

D. Any owner that meets the requirements of subsection C above may sell or transfer the massage business, but the new owner of the massage business shall apply and obtain a massage establishment permit before the new owner or operator begins operating the massage establishment. If the massage business that is sold or transferred does not have a history of violating any provisions of the Chapter for at least one year preceding the date of sale or transfer of the business, the business may obtain a massage establishment permit to operate in the City even if the number of massage establishments exceed the maximum number of massage establishments permitted in the City pursuant to subsection A above, as long as the business meets all the requirements of Section 5.22.070.

5.22.060 Application for massage establishment permit.

A. All persons desiring a permit for a massage establishment shall file a written application on the required form available at the City’s Planning Department. The application, to be signed under penalty of perjury, shall be accompanied by the appropriate filing fee established by resolution of the City Council. The application shall be completed and signed by the operator of the proposed massage establishment, if a sole proprietorship; one general partner, if the operator

is a partnership; one officer or one director, if the operator is a corporation; and one participant, if the operator is a joint venture. The application for a permit does not authorize operation of a massage establishment unless and until such permit has been properly granted. The application shall contain or be accompanied by the following information:

1. The type of ownership of the business; for example, whether an individual, partnership, or corporation. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation and the names and residence addresses of each of its current officers and directors, and of each stockholder holding more than five percent of the stock of that corporation. If the applicant is a partnership, the application shall set forth the name and residence of each of the partners, including limited partners. If the business is a limited partnership, it shall furnish a copy of its certificate of limited partnership filed with the Secretary of State. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply;

2. The precise name under which the massage establishment is to be conducted;

3. The complete address, all telephone numbers, and email address of the massage establishment;

4. Whether massage professionals employed by the massage establishment will perform outcall massage services;

5. A complete current list of the names, residence addresses and copy of driver's license or other picture identification card issued by a governmental authority, of all proposed massage professionals, managers, operators, and employees of the massage establishment;

6. For each person who will be providing massage at the massage establishment, a copy of his or her CAMTC Certificate and a copy of his or her current CAMTC issued identification card;

7. A description of any other business operated on the same premises or within the City or the state of California that is owned or operated by the applicant;

8. The following personal information concerning the applicant:

- a. Full complete name and all aliases used by the applicant,
- b. Current address and all previous residential addresses for eight years immediately preceding the present address of the applicant,
- c. Acceptable proof that the applicant is at least eighteen years of age,
- d. Proof of legal residency and/or the ability to legally work in the United States,

- e. The applicant's complete business, occupation and employment history for eight years preceding the date of application, including, but not limited to, the massage or similar business history and experience of the applicant,
- f. The complete massage permit history of the applicant, whether such person has ever had any permit, license, or certification to conduct a massage business issued or denied by any governmental authority; the date of issuance of such a permit or license, whether the permit or license was denied, revoked or suspended; and the reason therefor,
- g. Whether the applicant has ever had a massage therapist or massage practitioner permit, license, or certification denied, revoked or suspended by the CAMTC, and the reason therefor,
- h. All criminal convictions occurring in any state or country, including convictions resulting from any plea of *nolo contendere* (*no contest*), within the last ten years, including those dismissed or expunged pursuant to Penal Code Section 1203.4, but excluding infraction traffic violations, and the date and place of each such conviction and reason therefor,
- i. Information regarding any pending criminal charges against the applicant, and
- j. A complete set of fingerprints taken by the police department.

The applicant does not need to provide the information contained in subsections (c) through (i) of this section if the applicant is a massage professional and provides a copy of his or her current CAMTC Certificate and a copy of his or her current CAMTC issued identification card;

9. The name and address of the owner and lessor of the premises upon or in which the massage establishment is to be conducted. In the event the applicant is not the legal owner of the premises, the application must be accompanied by a copy of the lease and a notarized acknowledgment from the owner of the premises that a massage establishment will be located on the premises, and that the massage establishment must operate in compliance with the requirements of Chapter 5.22 of the Temecula Municipal Code;

10. Such other identification and information as the Chief of Police may require in order to discover the truth of the matters required to be set forth in the application;

11. A statement in writing and dated by the applicant that he or she certifies under penalty of perjury that all information contained in the application is true and correct;

12. Statements in writing and dated by the applicant and the applicant's designated manager(s) certifying under penalty of perjury that they:

- a. Have reviewed Chapter 5.22 of the Temecula Municipal Code,
- b. Understand its contents,
- c. Understand the duties of a manager,
- d. Will only employ or retain CAMTC certified massage professionals and failure to comply may result in the revocation of the massage establishment permit,
- e. Authorize the Chief of Police to investigate the truth of the information contained in the application, except that if the applicant is a CAMTC certified professional, the Chief of Police shall not perform a background check, and
- f. Will be responsible for the conduct of all massage establishment operators, employees, agents, independent contractors, or other representatives while such persons are on the premises of the massage establishment or providing outcall massage services, and that failure to comply with the provisions of this chapter and any federal, state, or local law, may result in the revocation of the massage establishment permit;

13. If, during the term of a permit, the permit holder has any change in information submitted on the original or renewal application, the permit holder shall notify the police department of such change, within ten business days thereafter, in writing, except that the provisions of Section 5.22.080(B)(23) will govern the notification regarding the hiring or termination of an employee; and

14. A floor plan of the proposed massage establishment showing all interior areas and rooms where massage will be provided, all doors, restrooms, plumbing, and any other physical features required by the Chief of Police.

B. The applicant, if a corporation or partnership, shall designate one or more of its officers or partners to act as manager during business hours. If the applicant is an individual, then that individual, or designee thereof shall act as manager. Each person who shall serve as manager shall complete and sign all application forms required of an individual applicant for a massage establishment permit.

C. Notwithstanding the fact that an application filed under this section may be a “public record” under Government Code Section 6250, *et seq.*, certain portions of such application contain information vital to the effective administration and enforcement of the licensing and/or permit scheme established herein which is personal, private, confidential, or the disclosure of which could expose the applicant to a risk of harm. Those portions of the application which are not subject to disclosure are: the applicant’s residence address and telephone number, the applicant’s date of birth and/or age, the applicant’s driver’s permit and/or social security number, and/or personal financial data. The City Council in adopting the application or permitting system set forth herein has determined in accordance with Government Code Section 6255 that the public

interest in disclosure of the information set forth above is outweighed by the public interest in achieving compliance with this chapter by ensuring that the applicant's privacy, confidentiality or security interests are protected. The City Clerk shall cause to be redacted from any copy of a completed permit application made available to any member of the public, the information set forth above.

5.22.070 Message establishment permit issuance and denial.

A. Upon receipt of a written application for a permit, the Chief of Police shall conduct an investigation to ascertain whether the applicant satisfies the requirements of this Chapter. The Chief of Police shall, within 30 days of receipt of an application, and on a first-come-first-served-basis, approve, conditionally approve or deny the application. The 30-day period may be extended for up to 30 additional days, if necessary, to complete the investigation.

B. If the applicant shows documentation of having a valid CAMTC certificate as a massage professional, the Chief of Police shall not conduct a background check on the applicant pursuant to Government Code Section 51034, but shall deny the application if the maximum number of massage establishments under Section 5.22.050 has been met, or may deny the application if the applicant does not meet the requirements set forth in Section 5.22.070(D).

C. If the applicant does not show documentation of having a valid CAMTC certificate as a massage professional, the Chief of Police shall deny the application if the maximum number of massage establishments under Section 5.22.050 has been met, or may deny the application if the applicant does not meet the requirements set forth in Section 5.22.070(D), or if the Chief of Police makes any of the following findings:

1. The applicant, if an individual, or any of the officers or directors of the corporation, if the applicant is a corporation; or a partner, if the applicant is a partnership, or any person directly engaged or employed in the massage establishment, including a massage professional has, within ten years preceding the date of the application:

a. Been convicted of any crime involving conduct which requires registration under any state, federal or territorial law similar to and including Penal Code Section 290, or involving conduct which is a violation of the provisions of any state, federal or territorial law similar to and including Penal Code Sections 266(h), 266(i), 314, 315, 316, 318, 647 (a), (b) or (d), 653.22, 653.23, or; any crime or violation for which the prosecutor accepted a plea to a violation of Penal Code Section 415, 602, or any lesser included or related offense, or any other Penal Code or other criminal violation in satisfaction or in lieu of, or as a substitute for, any of the foregoing crimes or Penal Code violations or for any crime involving dishonesty, fraud, deceit, or moral turpitude. In determining whether any person pled to a lesser included or related offense or any other offense in lieu of any of the foregoing code sections or crimes, pursuant to any provision of this section, the Chief of Police, and any person considering this matter on appeal, may consider the underlying facts resulting in the arrest regardless of the charge for which the applicant was convicted;

b. Been convicted of a violation of Health and Safety Code Section 11550 or any offense involving the illegal sale, distribution or possession of a controlled substance specified in Health and Safety Code Sections 11054, 11055, 11056, 11057 or 11058;

c. Engaged in conduct in another jurisdiction which, if it had occurred within the City, would constitute grounds for denial or revocation under this Chapter;

d. Been subjected to a permanent injunction against the conducting or maintaining of a nuisance pursuant to Penal Code Sections 11225 through 11235 or any similar provisions of law in a jurisdiction outside the state of California;

e. Engaged in conduct in any state or country which would constitute an offense as described in subsection (1)(a) or (b) of this section;

f. Been convicted of an act involving theft, dishonesty, fraud, deceit or moral turpitude or an act of violence, which act or acts are related to the qualifications, functions or duties of the operator of a massage establishment, or which act or acts occurred in connection with the operation of a massage establishment;

g. The applicant is registered under Penal Code Section 290, or any similar law in any state or other jurisdiction;

h. The applicant has had a massage establishment permit, or other similar license or permit denied, suspended or revoked for cause by any governmental authority; or

i. The applicant has had any massage therapist or massage practitioner permit, license, or certification denied, revoked or suspended by the CAMTC.

D. For all applicants, the Chief of Police may deny the application if he or she makes any of the following findings:

1. The applicant or any of the applicant's proposed employees, after a full hearing by administrative proceeding or state court, has aided and abetted any of the offenses listed this section;

2. The applicant has made a false, misleading or fraudulent statement or omission of fact to the City in the permit application;

3. The application does not contain all of the information required by this section;

4. The massage establishment, as proposed by the applicant, does not comply with all applicable laws, including, but not limited to, health, zoning, fire and safety requirements, regulations and standards;

5. The applicant has not satisfied the requirements of this Chapter in the time specified; or

6. The location of the proposed massage establishment has within a twelve (12) month period prior to the submittal of the application:

a. Been the site of a violation of this Chapter, or any similar criminal or civil ordinance, law, rule, or regulation of the State of California or any other public agency related to the operation of massage establishments;

b. Been the site of a massage establishment that was closed due to criminal activity. For purposes of this subsection, closure due to criminal activity includes voluntary closure of a massage establishment after there have been arrests at the location or other notices relating to criminal activity;

c. Been the site of a massage establishment where violations have not been addressed in the time specified in the notice of violation or administrative citation;

d. Been the site of a massage establishment that has been revoked pursuant to this Chapter;

e. Been the site of a massage establishment that has received a notice of revocation or fine issued pursuant to the Temecula Municipal Code, while any appeal of the revocation or fine is pending; or

f. Been the site of a massage establishment that has outstanding fines issued pursuant to the Temecula Municipal Code that have not been paid.

E. If the application is denied for failure to comply with this Chapter, the applicant, owner and operator of the massage establishment may not reapply for a period of one year from the date the application was denied.

F. An appeal of the denial of a massage establishment permit shall be governed by procedures set forth in Section 5.22.140 (C) and (D).

5.22.080 Requirements applicable to the operation of massage establishments.

A. Facilities.

1. Structure.

a. Massage establishments shall be located in a zoning district which permits such use. When a new massage establishment is proposed to be constructed, a set of plans shall be submitted to the City for approval and shall be accompanied by the appropriate application and plan check fee.

b. No massage establishment located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area, shall, during business hours, block visibility into the interior reception and waiting area through the use of curtains, closed blinds, or any other material that obstructs, blurs or darkens the view into the premises.

2. **Signs—Display of Permits.** Neither signs nor the front of the business shall be illuminated by strobe, flashing lights or string lights. Each operator and/or on-duty manager shall display the massage establishment permit in a conspicuous public place in the lobby of the massage establishment. In addition, each operator and/or on-duty manager shall ensure (a) CAMTC Certificates for each massage professional employed at the establishment (whether on-duty or not) are conspicuously displayed in the lobby area of the massage establishment, and (b) that each massage professional has his or her identification card in his or her possession while providing massage services for compensation.

3. **Services List.** Each operator shall post and maintain a list of services available and the cost of such services, in a conspicuous public place within the premises. No owner, manager or operator shall permit, and no massage professional shall offer or perform, any service other than those posted, nor shall an operator or a massage professional request or charge a fee for any service other than those on the list of services available and posted in the reception area or provided to the client in advance of any outcall services.

4. **Lighting and Ventilation.** Each operator shall illuminate each room or area where massage is performed with light equivalent to a minimum of forty-watt incandescent light bulb, and shall provide sufficient ventilation. Such lighting and ventilation shall otherwise comply with the current mechanical and building code of the city. The lighting in each massage room shall be activated at all times while the patron is in such room or area.

5. **Bathroom Facilities.** A minimum of one toilet and one separate wash basin shall be provided for patrons in each massage establishment. Each wash basin shall be equipped with soap or detergent and hot running water at all times and shall be located in close proximity to the area devoted to the performing of massage services. A permanently installed soap dispenser, filled with soap, and a single service towel dispenser or hand air dryer shall be provided at the restroom hand wash sink. Bar soap shall not be used. A trash receptacle shall be provided in each toilet room. Showers may be provided at the operator's option.

6. **Separate Rooms.** If male and female patrons are to be treated simultaneously at the same massage establishment, separate massage rooms shall be provided for male and female patrons provided, however, that massage establishments having separate massage rooms for male and female patrons may provide "couples massage" in a single room, subject to the requirements of this subsection. Couples massage, i.e., concurrent massage of two persons, is permitted within one room provided all other requirements of this Chapter are satisfied including, but not limited to, provision of a separate massage table and massage professional for each customer. Any room to be used for couples massage shall be sufficiently sized so as to comply with any and all applicable building and fire codes and to permit free passage and movement of the massage professionals.

7. **Maintenance.** All facilities of the massage establishment must be in good repair and shall be thoroughly cleaned and sanitized each day the business is in operation. All walls, floors and ceilings of each restroom and shower area, if any, shall be made of washable mold-resistant surfaces.

8. **Massage Table.** A massage table shall be provided in each massage room and the massage shall be performed on this massage table. The tables shall have a minimum height of twenty-eight inches. Two-inch thick foam pads with maximum width of four feet may be used on a massage table and must be covered with durable, washable plastic or other waterproof material. Beds, floor mattresses and waterbeds are not permitted on the premises.

B. Operations.

1. **Equipment.** Each operator and/or on duty manager shall provide and maintain on the premises adequate equipment for disinfecting and sterilizing instruments used in massage.

2. **Inspections.** A massage establishment may be inspected at least twice a year for the purpose of determining that the provisions of this Chapter are met. Such inspections may be made by the police department, persons employed by the City whose job descriptions require the person to enforce the provisions of this code, including but not limited to, code enforcement officers, and such other enforcement officials as described in Section 1.16.020 and 1.21.020 of the Temecula Municipal Code or its successor sections.

3. **Linens and Towels.** Common use of towels or linen shall not be permitted. Towels and linen shall be laundered or changed promptly after each use. Separate cabinets or containers shall be provided for the storage of clean and soiled linen and towels, and such cabinets or containers shall be plainly marked: “clean linen” and “soiled linen.”

4. **Sterilizing Equipment.** Each massage establishment and/or massage professional shall provide and maintain at the location where the massage is performed adequate equipment for disinfecting and sterilizing instruments used in massage. Instruments utilized in performing massage shall not be used on more than one (1) client unless they have been sterilized, using approved sterilization methods.

5. **Living Prohibited.** No person or persons shall be allowed to live inside the massage establishment at any time. Beds, mattresses, waterbeds, futons, sofa beds, or any type of portable or convertible beds are not permitted on the premises.

6. **Food Preparation.** No food of any kind shall be cooked or prepared in a massage establishment. No food of any kind shall be for sale or sold in the establishment.

7. **Alcoholic Beverages/Drugs—Prohibited Materials.** No person shall enter, be in or remain in any part of a massage establishment while in possession of, consuming, using or under the influence of any alcoholic beverage, recreational drugs or controlled substance. The operator and on-duty manager shall be responsible to ensure that no such person shall enter or remain upon the massage establishment. Service of alcoholic beverages or recreational drugs shall not be allowed.

8. **Contraceptive and sexual devices.** No contraceptive devices; i.e., condoms or other prophylactics, or sexual devices, the primary purpose of which is for sexual stimulation, shall be sold, utilized, or allowed on the premises or possessed by any employee while on the premises.

9. Recordings. No electrical, mechanical or artificial device shall be used by the operator 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 written consent of the patron.

10. Roster of Employees. The operator and/or manager of the massage establishment shall maintain a roster of all employees, including operators, managers and massage professionals, showing each name, nick-name and alias, home address, age, birth date, gender, height, weight, color of hair and eyes, phone number, Social Security Number, CAMTC certificate number, date of employment, and duties of each employee. The foregoing roster and all information therein shall be maintained on the premises for a period of two years following the termination of each employee. Upon consent or upon obtaining an applicable warrant, the operator or manager on duty shall make the roster immediately available for inspection during all hours the massage establishment is open for business. Information in the roster shall be available for inspection only to City or police department representatives while performing official duties. It is unlawful for a massage establishment to employ or retain any person to provide massage for compensation, or to allow any person to provide massage for compensation on the premises of a massage establishment, unless that person is listed as a massage professional on the massage permit issued pursuant to this Chapter.

11. Coverings. The massage professional shall provide to each patron clean, sanitary and opaque coverings capable of covering areas of the patron identified as prohibited massage areas including the genital area, anus and female breast(s). Re-use of such coverings is prohibited unless adequately cleaned and sanitized.

12. Records. Every person operating a massage establishment shall keep a record of the dates and hours of each treatment or service provided, the name and address of the patron, the name of massage professional administering such service and a description of the treatment or service rendered.

13. Hours of Operation. The owner must advise the city, in writing, at the time of application for a permit of the business hours, and any change in hours occurring thereafter. No person shall operate a massage establishment or administer a massage in any massage establishment or at an outcall location booked by that massage establishment between the hours of 9:00 p.m. and 7:00 a.m. All massages must terminate by 9:00 p.m., regardless of the start time. All customers, patrons and visitors shall be excluded from the massage establishment during these hours and be advised of these hours. The hours of operation must be displayed in a conspicuous public place in the lobby within the massage establishment and in the front window clearly visible from the outside. It is the obligation and responsibility of the massage establishment to inform clients of the requirement that any massage service must cease by 9:00 p.m.

14. Advertising. No permitted massage establishment shall place, publish or distribute, or cause to be placed, published or distributed, in any publication or any website, any advertising that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than those services authorized by the Massage Therapy Act and pursuant to this Chapter. No massage establishment shall employ language in the text of such advertising that would reasonably suggest to a prospective patron that

any service is available other than those services authorized by this Chapter. The massage establishment shall ensure that it and all certified massage professionals comply with Business and Professions Code Sections 4608, 4609 and 4611, by requiring the massage professionals to include the name under which he or she is certified and his or her certificate number in any and all advertising of massage for compensation; to not engage in sexually suggestive advertising related to massage services; to not hold him or herself out as a certified massage professional, or use terms such as “licensed” or “certified,” that implies that an uncertified person is certified as a massage professional; to not falsely state or advertise or put out any sign or card, or to falsely represent to the public, that any individual is licensed, certified, or registered as a massage professional if that individual is not so certified by the CAMTC.

15. Insurance. No operator or manager shall engage in, conduct or carry on the business of a massage establishment unless there is on file with the police department, in full force and effect at all times, documents issued by an insurance company authorized to do business in the state of California evidencing that the permit holder is insured under a liability insurance policy providing minimum coverage of one million dollars for personal injury or death to one person arising out of the operation of the massage establishment and/or the administration of any massage. Evidence of the required insurance shall be provided to the Chief of Police at the time an initial application, or renewal application, is filed.

16. Compliance with the Americans with Disabilities Act and related laws. All massage establishments must comply with all state and federal laws and regulations providing for access to and receipt of services by disabled persons.

17. Doors. All front, reception, hallway or front exterior doors (except back or exterior doors used solely for employee entrance to and exit from the massage establishment) shall be unlocked during business hours, except as may be permitted by applicable law (such as the Temecula Fire Code) which allow for safety doors that may be opened from the inside when locked. No massage may be performed within any cubicle, room, booth or any other area within a massage establishment that is fitted with a lock of any kind (such as a locking door knob, padlock, dead bolt, sliding bar or similar device), unless the door is an exterior door. No entry doors to any room shall be obstructed by any means. The requirement that an exterior door must remain unlocked at all times does not apply to any massage establishment owned by one individual with one or no employees or independent contractors.

18. Access. No person shall be permitted to be within a massage establishment except within the lobby or reception area, or area where a customer is receiving massage services, during hours of operation, unless that person has been disclosed to the City as required under this Chapter, including Section 5.22.060(A)(5).

19. Discrimination. No massage establishment may discriminate or exclude patrons on the basis of their race, sex, religion, age, disability or any other classification protected under federal or state laws, rules or regulations.

20. Prohibited Massage Areas. No massage professional or any person employed by the massage establishment, including independent contractors, may engage in acts that a reasonable person in the client’s perspective, would be understood as an offer to perform or

engage in with a client, acts that are sexual in nature, nor shall any massage professional or any person employed by the massage establishment, massage the genitals or anal area of any patron, nor shall any operator or manager allow or permit such massage. An operator must comply with Business and Professions Code Section 4609(a) relating to sexual acts, including not allowing massage professionals to engage in any form of sexual activity on the premises of the massage establishment, or to engage in sexual activity while providing massage for compensation. A massage professional may only provide massage of female breasts with written consent of the person receiving the massage and a referral from a licensed California health care provider. This section is not intended to prohibit any massage technique recognized by CAMTC as legitimate, or to impose any specific restriction or professional practice beyond those set forth in Business and Professions Code Section 4609(a). No operator, manager or employee while performing any task or service associated with the massage business, shall be present in any room with another person unless the person's genitals, gluteal crease, anus and, in the case of a female, her breasts, are fully covered.

21. Clothing. A massage professional may not wear attire that is transparent, see-through, or substantially exposes the massage professional's undergarments or that exposes his or her breasts, buttocks or genitals, or that in any way willfully and lewdly exposes his or her private parts in any place that is in public or where there are other people present who may be offended or annoyed by such action. Swim attire may not be worn unless the massage professional is providing a water-based massage modality approved by the CAMTC. A massage professional shall not wear any clothing that is deemed by the CAMTC to constitute unprofessional attire. All employees of the massage establishment that are not massage professionals shall also adhere to these clothing requirements.

22. Responsibility for Conduct of Massage Establishment. The operator and on duty manager shall be jointly responsible for the conduct of all employees while the employees are on the premises of the massage establishment. Any act or omission of an employee constituting a violation of any provision of this Chapter shall be deemed to be an act or omission of the operator and on duty manager for purposes of determining whether the massage establishment permit should be revoked, or an application for such permit or renewal thereof, denied.

23. Licensed Massage Professional. No operator or manager shall employ any person as a massage professional who does not hold a CAMTC Certificate. Every operator or manager shall report to the Chief of Police any change of employees, whether by new or renewed employment, discharge or termination, on the form and in the manner required by the Chief of Police. The report shall contain the name of the employee and the date of hire or termination. The report shall be made within 10 business days of the date of hire or termination. The operator and manager must notify the Chief of Police immediately upon the massage establishment's notice of any disciplinary action taken by the CAMTC regarding one of the establishment's massage professionals and submit a copy of the notice or order. This provision requires reporting to the Chief of Police, even if the operator or manager believes that the Chief of Police has or will receive the information from another source.

24. School of massage. No massage establishment shall operate as a school of massage, or use the same facilities as that of a school of massage.

25. Operation of a massage establishment without a qualified manager being present at all times that the massage establishment is open for business is prohibited.

26. Compliance With all Laws. Each operator and on-duty manager shall at all times comply with all provisions of this Chapter and all other applicable provisions of the Temecula Municipal Code, all conditions of any required zoning approvals, conditions imposed by the Chief of Police, and all state and federal laws, statutes and regulations, and shall provide proof of compliance upon request by the police department.

5.22.090 Requirements applicable to the operation of outcall services.

A. Outcall Massage. No person shall provide outcall massage in the City unless all of the following requirements are met:

1. The appointment for the outcall massage was made by a massage establishment in good standing under this Chapter and the massage professional is employed by the same massage establishment.

2. The massage professional must possess a valid unrevoked CAMTC Certificate, and wear his or her massage CAMTC photo identification card on his or her clothing in an openly visible manner during all working hours.

3. There is in the possession of the outcall massage professional a description of those services the outcall massage professional provides and the cost of such services. No service shall be included in the list unless it both fits within the definition of massage, seated massage, or reflexology in Section 5.22.120 and complies with all other requirements of this Chapter. The list shall be in English. No person shall perform, or offer to perform, any service(s) other than those listed.

4. The outcall massage professional shall at all times be equipped with a sufficient supply of clean sanitary towels, coverings and linens such that towels and linens are not to be used on more than one patron unless they have first been laundered and disinfected. Disposable towels and coverings shall be permitted, but shall not be used on more than one patron.

5. Instruments used in performing massage shall not be used on more than one patron unless they have been sterilized using approved sterilizing methods. Adequate equipment for sterilizing instruments used in performing the acts of massage shall be provided.

6. No massage professional shall at any time during which they are on the premises of the person being provided the outcall massage, wear attire that is transparent, see-through, or substantially exposes the massage professional's undergarments or exposes his or her breasts, buttocks or genitals.

7. No massage professional performing outcall massage shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that would reasonably suggest to prospective patrons that any service is available unless such service is listed on their list of services required under Section 5.22.080(A)(3).

8. A massage shall not be given unless the patron's genitals are fully covered and, in addition, a female patron's breasts are fully covered.

9. Pads used on massage tables shall be covered with a durable washable plastic or other waterproof material.

10. No electrical, mechanical or artificial device shall be used by the massage professional 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 consent of the patron.

11. All massage professionals authorized to perform outcall massage services hereunder shall keep a separate written record at the certified massage profession's principal place of business of all outcall massage services performed. The record shall include, but is not limited to, the dates and hours of each treatment or service, the full name and complete address of the patron, the name of the massage professionals administering such service and a description of the treatment or service rendered. These records shall be prepared prior to administering any outcall massage or treatment and shall be retained for a period of 24 months after such treatment or service. Upon consent or upon obtaining an applicable warrant, the police department may inspect the records to ensure compliance with this section. The information furnished or secured as a result of any such records shall be used only to ensure and enforce compliance with this Chapter, or any other applicable State or federal laws, and shall remain confidential. Any unauthorized disclosure or use of such information by any officer or employee of the City shall constitute a misdemeanor.

5.22.100 Transfers and changes of business.

No massage establishment permit may be sold, transferred or assigned by a permit holder, or by operation of law, to any other person or persons. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such permit and such permit shall thereafter be null and void; provided and excepting, however, that if the permit holder is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such permit, and in such case, the permit, upon notification to the Chief of Police, shall be placed in the name of the surviving partners.

5.22.110 Fees.

The City Council shall establish by resolution, and from time to time may amend, the fees for the administration of this Chapter. Fees required by this Chapter shall be in addition to any required under any other chapter of this code and shall comply with the Massage Therapy Act.

5.22.120 Exemptions.

A. This Chapter shall not apply to the following individuals or businesses while engaged in the performance of the duties of their respective professions:

1. Persons holding a valid certificate to practice the healing arts under the laws of the State of California, including, but not limited to, holders of medical degrees, such as physicians, surgeons, chiropractors, osteopaths, and persons working under their direct supervision who are working at the same location as the licensed person, provided such professionals are performing massage, as defined in this Chapter, at a licensed business as part of, and to the extent permitted by, their respective professions;

2. Barbers and cosmetologists, licensed by the state of California, and persons licensed by the state of California to provide skin care (estheticians) or nail care (manicurists), as defined and to the extent provided in Business and Professions Code Section 7316, or any successor provision thereto, as follows:

- a. Barbers may massage the face and scalp,
- b. Cosmetologists may massage the scalp, face, neck, arms, hands, feet, legs below the calf, and the body extending from the clavicles upward,
- c. Estheticians may massage the face, neck, arms and the body extending from the clavicles upward,
- d. Manicurists may massage the hands, feet, and legs below the calf,
- e. State licensed barbers, cosmetologists, estheticians and manicurists are subject to the exemption provided by this subsection only while providing other barbering, cosmetology, skin care or nail care services in a facility licensed by the City of Temecula to provide such services. The provisions of this subsection apply to apprentices of any of the foregoing who are licensed by the state of California, but only while performing barbering, cosmetology, skin care or nail care services under the direct supervision of a barber, cosmetologist, esthetician or manicurist who is subject to the exemption provided by this subsection;

3. Hospitals, nursing homes, sanitariums, or other health care facilities duly licensed by the state of California;

4. Fully accredited high schools, junior colleges, and colleges or universities whose athletic coaches and trainers are acting within the scope of their employment;

5. Trainers of amateur, semiprofessional or professional athletes or athletic teams;

6. Massage conducted in the course of education at any recognized school of massage, as defined herein;

7. "Chair massage," i.e., massage of the body from the waist up, to a person seated in a chair, provided the customer and massage therapist are fully clothed and the massage is not performed on any prohibited areas as identified in Section 5.22.080(B)(20), and the massage is performed in an area that is within public view;

8. “Reflexology” defined as the application of pressure to areas on the feet, hands, and ears with specific thumb, finger, and hand techniques without the use of oil or lotion, while the customer and massage therapist are fully clothed;

9. Persons and businesses exempt from the permitting requirements of this Chapter, pursuant to any state or federal law that expressly preempts the permit requirements set forth in this Chapter, but only to the extent of such preemption. Any business or person claiming to be exempt pursuant to this subsection shall have the burden of establishing the applicability of such exemption.

B. The provisions of this Chapter shall not apply to massage services provided by the City or by any City-authorized person, group, entity, business or organization as part of an official City program or function approved in writing by the City Manager.

5.22.130 Duration and renewal of permits.

A. Permits for massage establishments may be renewed on the first business day in February 2020, and on a year-to-year basis thereafter on the first business day in February, provided the permit holder continues to meet the requirements of this Chapter. “Business day” as used in this subsection shall mean the days that Temecula City Hall is open for business.

B. No permit granted herein shall confer any vested right to any person for more than the permit period.

C. Applications for a permit renewal shall be filed with the Chief of Police at least sixty days prior to expiration of the existing permit, otherwise the permit will lapse. At the discretion of the Chief of Police, a conditional permit pending satisfactory completion of the renewal application process may be issued to renewal applicants who have no permit revocation proceedings pending at the time of filing of the renewal application.

D. Renewal applications shall set forth such information as may be required by the Chief of Police to update and verify the information contained in the original permit application. The applicant shall pay an application fee when applying for renewal.

E. If an application for renewal of permit and all required information is not timely received and the permit expires, no right or privilege to provide massage shall exist.

5.22.140 Revocation, permit denial and appeal.

A. Violation and Noncompliance. The Chief of Police may refuse to issue a permit, renew a permit, or may revoke an existing permit, on the grounds that the applicant or permit holder has failed to comply with the permit conditions or other requirements of this Chapter, or any requirement of State law. In any such case, the applicant or permit holder shall have the right to appeal in the time and manner set forth in this section.

B. Revocation and Denial of Renewal of Massage Establishment Permit.

1) The Chief of Police may revoke or refuse to renew a massage establishment permit if he or she finds that:

- a. the massage establishment is employing a massage therapist that does not hold a valid CAMTC license;
- b. any massage professional, manager, operator, or employee of the massage establishment has been convicted of any crimes set forth in Section 5.22.070(C)(1);
- c. the massage establishment, owner, or manager, has been issued an administrative citation for violating Section 5.22.080(B)(5), (7), (8), (20), or (21) in the past 12 months from the date of the permit application;
- d. alcoholic beverage or recreational drugs are found on-site;
- e. the massage establishment has violated any provision of Business and Professions Code Section 4600 et seq.; or
- f. the Chief of Police determines that the massage establishment's operations constitute an immediate threat to the public health and safety.

2) The Chief of Police may revoke or refuse to renew a massage establishment permit if he or she finds any three violations of this Chapter within a twelve month period.

For purposes of this section, if an administrative citation is contested, and is held to be invalid or rescinded by an independent hearing officer appointed pursuant to this Chapter, or by any court of law, the violations identified in the administrative citation shall not form the basis for revoking or refusing to renew a massage establishment permit. If any administrative citation is contested, and is upheld by an independent hearing officer appointed pursuant to this Chapter, or by any court of law, that administrative citation can form the basis for the revocation or refusal to renew a massage establishment permit.

C. Notice. When the Chief of Police concludes that grounds for denial of a new permit or permit renewal, or permit revocation exist, the Chief of Police shall serve the applicant or permit holder, either personally or by certified mail, addressed to the business or residence address of applicant or permit holder, with a notice of denial of permit, or notice of intent to revoke or deny renewal. This notice shall state the reasons for the decision, the effective date of the decision, the right of the applicant or permit holder to appeal the decision to a hearing officer, and that the decision will be final if no written appeal is filed within the time permitted.

D. Appeal.

1. The right to file a written appeal of a revocation or denial of new permit or renewal of a permit shall terminate upon the expiration of fifteen days of the date of mailing by the Chief of Police of the notice specified in Subsection C of this section. The written appeal shall be filed with the City Clerk of the City of Temecula and shall be accompanied by an appeal fee in

an amount as set by City Council resolution, and the City Clerk shall promptly forward a copy of the appeal to the Chief of Police.

2. In the event an appeal is timely filed, the denial of the permit, or renewal or revocation of the permit, shall not be effective until a final decision has been made on the appeal. Notwithstanding the foregoing, if the Chief of Police finds and determines that permitting a massage establishment to continue to operate, pending the appeal hearing, would present an unreasonable and immediate risk to the public health and safety, the denial of renewal or revocation may take effect immediately. If no timely appeal is filed, the denial of renewal or revocation shall become effective upon expiration of the period for filing appeals.

3. Upon receipt of a timely appeal, the City Clerk shall refer the appeal to the California Office of Administrative Hearings for the assignment of an Administrative Law Judge to serve as the hearing officer.

4. In the event the Office of Administrative Hearings is unable to provide a hearing officers, the City Clerk shall make arrangements for the selection of a hearing officer to conduct the appeal hearing as provided in this subsection.

a) Not less than fifteen days prior to the appeal hearing, the City Clerk shall notify the Chief of Police and the appellant of the names of three qualified attorneys or retired Superior Court or Appellate Court judges submitted to the City Clerk by a reputable firm providing mediators and arbitrators to serve as a panel from which the hearing officer will be selected.

b) Within five days of the date of mailing the notice of the available panel, the Chief of Police and the appellant may notify the City Clerk in writing that he or she elects to remove one of the three potential hearing officers.

c) The City Clerk shall then request the mediation and arbitration firm to select one of the remaining names on the list as the designated hearing officer for the appeal hearing.

d) The hearing officer shall be fair and impartial and shall have no bias for or against the Chief of Police or the appellant.

5. At the appeal hearing, the hearing officer shall receive oral and written evidence from the Chief of Police and the appellant. The hearing officer shall have authority to administer oaths to those persons who will provide oral testimony. The evidence presented need not comply with the strict rules of evidence set forth in the California Evidence Code, but shall be the type of evidence upon which reasonable and prudent people rely upon in the conduct of serious affairs. The hearing officer shall have broad authority to control the proceedings and to provide for cross examination of witness in a fair and impartial manner. The Chief of Police shall have the burden of proof to establish by clear and convincing evidence the facts upon which his or her decision is based. The appeal hearing shall be recorded by audio recording. Any party may, at its sole cost and expense, utilize the services of a certified court reporter to prepare the verbatim record of the hearing. If a court reporter is used, the transcript prepared shall be made available

for purchase to both parties. The hearing officer may continue the appeal hearing from time to time, but only upon written motion of a party showing good cause for the continuance.

6. The hearing officer may uphold, modify or reverse the decision of the Chief of Police. Within ten days of the conclusion of the appeal hearing, the hearing officer shall render his or her decision and make written findings supporting the decision. He or she shall send the decision to the City Clerk. Upon receipt of the hearing officer's decision, the City Clerk shall send a copy of it to the Chief of Police and the appellant, along with a proof of mailing.

7. Within ten days from date of the City Clerk's mailing of the decision, either party may appeal the decision to the City Manager. The appeal shall be in writing and filed with the City Clerk, and shall state the grounds of the appeal and specify the errors in the hearing officer's decision. Upon receipt of the appeal, the City Clerk shall schedule the appeal for review by the City Manager to occur within thirty days.

8. The City Manager's review of the appeal shall be limited to determining whether the evidence received at the appeal hearing supports the findings and decision of the hearing officer. The City Manager shall be limited to considering the evidence presented at the appeal hearing. No public hearing shall be required and no new evidence shall be taken by the City Manager. The City Manager's decision on the appeal shall be set forth in a written opinion. The City Clerk shall mail a copy of the City Manager's opinion to the Chief of Police and the appellant along with a proof of service. Any legal action challenging the City Manager's decision shall be filed within ninety days of the date of the proof of service of mailing of the City Manager's opinion, pursuant to Section 1094.5, et seq., of the California Code of Civil Procedure. The City Manager's decision shall be final and effective upon mailing of the opinion. If the appellant prevails following a final decision, the appeal fee shall be returned.

5.22.150 Violation and penalty.

A. Violation of any provision of this Chapter is a misdemeanor and is subject to enforcement pursuant to the provisions of Chapters 1.16 and 1.20 of Title 1 of this Code. Violations are also subject to administrative citations pursuant to Chapter 1.21 of Title 1 of this code. The provisions of this Chapter may be enforced by members of the Riverside County Sheriff's Department, persons employed by the City whose job descriptions require the person to enforce the provisions of this code, including but not limited to, code enforcement officers, and such other enforcement officials as described in Section 1.16.020 and 1.21.020 of this code or its successor sections.

B. Any massage establishment operated, conducted or maintained contrary to the provisions of this Chapter shall be, and the same is declared to be, unlawful and a public nuisance, and the City may, in addition to, or in lieu of, prosecuting a criminal or administrative action hereunder, commence an action or actions, proceeding or proceedings for the abatement, removal and enjoinder thereof, in the manner provided by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such massage establishment businesses and restrain and enjoin any person from operating, conducting or maintaining a massage establishment or contrary to the provisions of this Chapter.

C. If a massage business is operating without a massage establishment permit, or a massage establishment has had its massage establishment permit revoked, staff shall send a certified letter to the property owner notifying him or her that the massage establishment is not permitted to operate in the City. The certified letter shall inform the property owner that the operation of the massage establishment on the property, without a valid massage establishment permit, is a public nuisance, and that the City may seek to prosecute the property owner criminally or civilly if the property owner does not, within sixty days of mailing such notice, take steps to ensure that the tenant does not continue to operate a massage establishment on the property. In any legal proceeding filed by the City against the property owner, the City may seek an order preventing the property owner from leasing the property to any person who does not hold a valid massage establishment permit.

5.22.160 Application to existing businesses.

A. All requirements set forth in this Chapter are deemed to be necessary for the protection of the public health, safety, and welfare and shall be applicable to and govern all existing and proposed massage establishments immediately upon the date the ordinance is codified in this Chapter, and shall become effective.”

Section 2. CEQA. The City Council hereby finds that this ordinance is exempt from the California Environmental Quality Act (CEQA) as there is no possibility the proposed ordinance would have a significant impact on the environment pursuant to State CEQA Guideline Section 15061(b)(3). More specifically, the proposed ordinance amends the City’s massage ordinance so that it is consistent with State law requirements, and regulates the operation of massage establishments. The ordinance does not alter the allowed uses in the City. A Notice of Exemption has been prepared and will be filed in accordance with CEQA and the State CEQA Guidelines.

Section 3. Severability. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are hereby declared to be severable.

Section 4. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.

Section 5. Effective Date. This Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Temecula this 9th day of July, 2019.

Michael S. Naggar, Mayor

ATTEST:

Randi Johl, City Clerk

[SEAL]

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF TEMECULA)

I, Randi Johl, City Clerk of the City of Temecula, do hereby certify that the foregoing Ordinance No. 19-10 was duly introduced and placed upon its first reading at a meeting of the City Council of the City of Temecula on the 25th day of June, 2019, and that thereafter, said Ordinance was duly adopted by the City Council of the City of Temecula at a meeting thereof held on the 9th day of July, 2019, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Randi Johl, City Clerk