

CONDITIONS OF APPROVAL

In addition to complying with all applicable codes, regulations, ordinances and resolutions, the following **conditions of approval** are recommended:

GENERAL

- G1. If relocation of an existing public facility becomes necessary due to a conflict with the developer's new improvements, then the cost of said relocation shall be borne by the developer.
- G2. Comply with all applicable codes, regulations, ordinances and resolutions.

ATTORNEY'S OFFICE

- A1. The Developer agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, attorneys' fees, injuries, costs, and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed by a third party against the City by reason of its approval of developer's project.

COMMUNITY DEVELOPMENT

- C1. Obtain required permits and inspections from the Building Official and comply with the conditions thereof.
- C2. Submit plans to the Planning Department for final architectural review and approval prior to application for building permits.
- C3. Property owner is responsible for collection and pick-up of all trash and debris on-site and adjacent public right-of-way.
- C4. Construction activity shall be limited to the hours of 7:00 a.m. to 6:00 p.m. weekdays and 9:00 a.m. to 6:00 p.m. Saturdays for projects within 300 feet of a residential use and shall not be allowed on recognized State and federal holidays, all in accordance with City Code Chapter 9.10.
- C5. Each treatment rooms' doors shall not be completely solid. There should a window or some terms of opening for the doors.
- C6. All massage therapists must have a California Massage Therapy Council (CAMTC) certificate prior to commencing operating at the business.
- C7. The number of massage therapists shall be limited to four massage therapists..

ENGINEERING

- E1. Obtain site clearance through Engineering Department prior to issuance of Building Permit. Site clearance will require payment of applicable development fees. Other requirements may be identified for compliance during the site clearance process. Contact Engineering Department at (408) 615-3000 for further information.
- E2. All work within the public right-of-way and/or public easement, which is to be performed by the Developer/Owner, the general contractor, and all subcontractors shall be included within a Single Encroachment Permit issued by the City Engineering Department. Issuance of the Encroachment Permit and payment of all appropriate fees shall be completed prior to commencement of work, and all work under the permit shall be completed prior to issuance of occupancy permit.
- E3. Encroachment permit required for ADA frontage improvements if building permit valuation is \$200,000 or greater, cumulatively within the 3 years of building permit submittal. All driveways, curb ramp, and sidewalks shall be updated to current City standards.
- E4. Show and comply with City's driveway vision triangle requirements at proposed driveway. Visual obstructions over three feet in height will not be allowed within the driver's sight triangle

near driveways and intersections in order to allow an unobstructed view of oncoming traffic. Contact Traffic Engineering at (408) 615-3000 for further information.

- E5. On-street loading/unloading shall not be permitted on property frontage.
- E6. For the current proposed site development, provide the following minimum bicycle parking spaces at the main entrance and/or high visible area: 4 Class II bicycle spaces.

POLICE

- PD1. The property should be fenced off during demolition and construction as a safety barrier to the public and deterrent to theft and other crime. Consider not having any screening material on the fence so passing Police Patrol checks will be able to see into the site.
- PD2. Address numbers should be a minimum of twelve (12) inches in height for commercial or industrial buildings. Consider illuminated numbers during the hours of darkness, and in a color that is contrasting to the background material. They shall be clearly visible from the street.
- PD3. Landscaping should follow the National Institute of Crime Prevention standards. That standard describes bushes/shrubs not exceeding 2' in height at maturity, or maintained at that height, and the canopies of trees should not be lower than 6' in height. Hostile vegetation is encouraged along the fence and property lines and under vulnerable windows.
- PD4. Lighting for the project to be at the IES (Illuminating Engineering Society of North America) standards and include the features listed below:
 - White light source
 - Pedestrian Scale
 - Full cut-off or shoebox design
 - Unbreakable exterior
 - Tamperproof Housings
 - Wall mounted lights/10' high
- PD5. These features increase natural surveillance, support and/or enhance security camera capabilities, and increase Police Patrol effectiveness.
- PD6. Any required enclosure fencing (trash area, utility equipment, etc.) would preferably be see-thru. If for aesthetic reasons prohibit that, the fencing should have a six (6) inch opening along the bottom for clear visibility. Any gates or access doors to these enclosures should be locked.

SPECIAL BUSINESS PERMITS

- PD7. Applicant shall contact the Santa Clara Police Department 'Permits' unit (408-615-4868) for regulated activity special licensing requirements.

SPECIAL NOTE

- PD9. This particular type of business is governed by Title 18 of the Santa Clara municipal code, specifically chapter 18.104. The text of this code is below:

Chapter 18.104 MESSAGE ESTABLISHMENTS

Sections:

- 18.104.010 Definitions.**
- 18.104.020 Location restrictions on
message establishments.**
- 18.104.030 Use permit required.**
- 18.104.040 Violations.**
- 18.104.050 Regulations nonexclusive.**

18.104.060 Application to existing businesses.

18.104.010 Definitions.

“Massage establishment” shall have the same definition set forth in SCCC [5.40.020](#). The exemptions under SCCC [5.40.060](#) apply to this chapter. (Ord. 1945 § 2, 10-13-15).

18.104.020 Location restrictions on massage establishments.

No lot or parcel of property in any zoning district or any building or structure thereon, or any portion thereof, within the city, shall be used to operate as a massage

establishment at a location closer than five hundred (500) feet from another massage establishment nor five hundred (500) feet from the property line of any of the below-indicated uses (whether such use is within or outside the City of Santa Clara):

(a) Schools (universities, community colleges, high schools, junior high schools, elementary and nursery schools).

(b) State-licensed child care centers and/or large family day care facilities.

(c) Hotels, motels, or lodging houses.

(d) Bowling alleys, ping-pong centers, electric-game centers, pool and billiard halls.

(e) Any lot or parcel zoned single-family residential. (Ord. 1945 § 2, 10-13-15).

18.104.030 Use permit required.

In addition to the permits required by Chapter [5.40](#) SCCC, massage establishments may be established only by first securing a use permit pursuant to Chapter [18.110](#) SCCC. (Ord. 1945 § 2, 10-13-15).

18.104.040 Violations.

(a) Any person operating or causing the operation of a massage establishment on any parcel in which no application for a massage establishment permit under Chapter [5.40](#) SCCC has been granted, or any person violating or causing the violation of any of the terms and conditions of the existing use permit, shall be subject to the revocation/suspension of the massage establishment permit issued pursuant to SCCC [5.40.180](#) and may be subject to penalties pursuant to SCCC [1.05.070](#). All remedies provided herein shall be cumulative and not exclusive. Any violation of these provisions shall constitute a separate violation for each and every day during which such violation is committed or continued.

(b) In addition to the remedies set forth in subsection (a) of this section, any violation of this chapter is hereby declared to constitute a public nuisance and may be abated or enjoined pursuant to Chapter [18.114](#) SCCC.

(c) If a massage establishment permit is revoked, or not renewed as a result of violations of Chapter [5.40](#) SCCC or of this chapter, no massage establishment use permit may be issued at that location for a period of one year from the date of revocation or nonrenewal. (Ord. 1945 § 2, 10-13-15).

18.104.050 Regulations nonexclusive.

The provisions of this chapter regulating massage establishments are not intended to be exclusive, and compliance therewith shall not excuse noncompliance with any other provisions of the City Code and/or any other applicable regulations. (Ord. 1945 § 2, 10-13-15).

18.104.060 Application to existing businesses.

Any massage establishment lawfully existing on the effective date of this chapter which becomes a nonconforming use by reason of the adoption of this chapter shall cease operation, or otherwise be brought into full compliance with the provisions of this chapter, not later than two years following the effective date of this chapter (the “amortization period”). (Ord. 1945 § 2, 10-13-15).

Chapter 5.40

MESSAGE SERVICES

AND MESSAGE ESTABLISHMENTS

Sections:

[5.40.010 Purpose and intent.](#)

[5.40.020 Definitions.](#)

[5.40.030 Massage certification required.](#)

[5.40.040 Owner and operator – Massage establishment permit required.](#)

[5.40.050 Business tax requirement.](#)

[5.40.060 When a permit is not required.](#)

[5.40.070 Massage establishment permit application and fee.](#)

[5.40.080 Massage establishment operating requirements.](#)

[5.40.090 Massage establishment facilities regulations.](#)

[5.40.100 Inspection by officials.](#)

[5.40.110 Permits nonassignable.](#)

[5.40.120 Change of location or change in name.](#)

[5.40.130 New massage therapists – Notification.](#)

5.40.140 Renewal of permits – Massage establishments.

5.40.150 Application of regulations to existing massage establishments and massage therapists.

5.40.160 Prohibited conduct.

5.40.170 Enforcement – Suspension or revocation of massage establishment permit.

5.40.180 Procedure for revocation or suspension of massage establishment permit.

5.40.190 Maintenance and review of massage therapy organization certificates.

5.40.010 Purpose and intent.

(a) Purpose.

(1) The City of Santa Clara is authorized to regulate massage establishments pursuant to Government Code Section [51030](#) et seq., Business and Professions Code Sections [460](#) and [4600](#) et seq. and Section [7](#) of Article XI of the California Constitution.

(2) In enacting these regulations the City of Santa Clara City Council (“City Council”) recognizes that massage is a viable professional field offering the public valuable health and therapeutic services.

(3) It is the purpose and intent of the City Council that the operation of massage establishments and persons offering massage be regulated in the interests of public health, safety, and welfare by providing minimum building, sanitation, and health standards and to ensure that persons offering massage shall possess the minimum qualifications necessary to operate such businesses and to perform such services offered.

(4) It is the intent of this chapter to enact regulations to insure that those offering massage services are qualified and trained and can be expected to conduct their work in a lawful and professional manner. The City Council finds that existing controls have not satisfactorily addressed or regulated serious criminal and public health problems, nor have the existing controls regulated the profession so as to sufficiently encourage compliance with State and local laws.

(b) Conflicts with other Provisions of this Code. In the event of any conflicts or inconsistencies between the provisions of this chapter and the provisions of any other chapter(s) of this Code, the provisions of this chapter shall control, unless to do so would be inconsistent with the stated purpose of this chapter.

(c) Responsibility for Enforcement. The primary responsibility for enforcement of the provisions of this chapter shall be vested in the Chief of Police. (Ord. 1945 § 1, 10-13-15).

5.40.020 Definitions.

Unless the particular provision or 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:

(a) Reserved for future use.

(b) Reserved for future use.

(c) "C" definitions:

(1) "California Massage Therapy Council (CAMTC)" shall mean the State organized nonprofit organization created to regulate the massage industry set forth in Chapter 10.5 of Division 2 of the California Business and Professions Code (commencing with Section [4600](#)).

(2) "CAMTC certificate" shall mean a current and valid certificate issued by the California Massage Therapy Council to a massage therapist.

(3) "Chief of Police" means the elected Chief of the Santa Clara Police Department, or his/her duly authorized agents and representatives.

(4) "City Attorney" means the City of Santa Clara's City Attorney, or his/her duly authorized agents and representatives.

(5) "City Manager" means the City of Santa Clara's City Manager, or his/her duly authorized agents and representatives.

(d) "D" definitions:

(1) "Days" means calendar days, unless specified differently.

(e) Reserved for future use.

(f) Reserved for future use.

(g) Reserved for future use.

(h) Reserved for future use.

(i) Reserved for future use.

(j) Reserved for future use.

(k) Reserved for future use.

(l) "L" definitions:

(1) "License" means a business tax certificate obtained from the municipal services/business tax division of the Finance Department to operate a massage establishment and/or provide massage service as required by this chapter.

(m) "M" definitions:

(1) "Massage" means any method of friction against, pressure on, stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus, or other appliances or devices, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment or other similar preparations.

(2) "Massage establishment" means any establishment having a fixed place of business where any individual, firm, association, partnership, corporation, joint venture or combination of individuals engages in, conducts, carries on or permits to be engaged in, conducted or carried on, for consideration, massages or health treatments involving massages as regular functions.

(3) "Massage therapist" or "holistic health practitioner" means any person who administers massages, baths, or nonmedical health treatments involving massage, or any nonmedical health care therapy

using massage as the principal therapeutic approach in caring for clients, to another person for any consideration whatsoever.

(n) Reserved for future use.

(o) "O" definitions:

(1) "Owner" shall mean any of the following individuals: (A) the sole practitioner of a sole proprietorship operating a massage establishment; (B) any general partner of a general or limited partnership that owns a massage establishment; (C) any person who has ten percent or greater ownership interest in a corporation that owns a massage establishment; (D) any person who is a member of a limited liability company that owns a massage establishment; (E) all owners of any other type of business entity that owns a massage establishment; (F) any person identified as an owner on the massage establishment permit.

(p) "P" definitions:

(1) "Permit" means the City-issued permit to engage in the business activity of operating a massage establishment, which shall be obtained through the process required by this chapter. Unless specifically provided otherwise, permits are not transferable.

(2) "Permittee" means a person, as defined hereinbelow, who has obtained a massage establishment permit. Permittee shall include the owner, operator, manager, and/or responsible, managing officer/employee. The term "responsible, managing officer/employee" includes partner(s).

(3) "Person" means any individual, firm, association, partnership, corporation, joint venture or combination of individuals.

(q) Reserved for future use.

(r) Reserved for future use.

(s) Reserved for future use.

(t) Reserved for future use.

(u) Reserved for future use.

(v) Reserved for future use.

(w) Reserved for future use.

(x) Reserved for future use.

(y) Reserved for future use.

(z) Reserved for future use. (Ord. 1945 § 1, 10-13-15).

5.40.030 Massage certification required.

It shall be unlawful for any person to engage in, conduct or carry on, in or upon any premises within the city the business of providing massage, for any compensation, without being in possession of a valid CAMTC certificate. (Ord. 1945 § 1, 10-13-15).

5.40.040 Owner and operator – Massage establishment permit required.

It is unlawful for any owner, as defined herein, to own, manage, or operate in or upon any premises within the city a massage establishment without first having obtained a massage establishment permit issued by the Chief of Police pursuant to the provisions hereinafter set forth. A permit shall be valid for twelve (12) months from the date of issuance, unless revoked or suspended. A separate massage establishment permit is required for each location if an owner owns, manages, or operates multiple massage establishments. The City may immediately order a business that fails to have a valid massage establishment permit to cease operation. (Ord. 1945 § 1, 10-13-15).

5.40.050 Business tax requirement.

A massage establishment owner, as defined herein, and massage therapists that are independent contractors and/or sole proprietorships shall pay the required business license tax for such business and occupation based on location. It is unlawful for massage therapists who are required to pay the business license tax under this section to give, provide, or administer to another person for any form of compensation whatsoever a massage as defined in this chapter at a massage establishment or any location from a massage establishment within the city in the absence of a valid business license pursuant to this chapter. A separate business license is required for each location if a massage therapist works at multiple massage establishments. (Ord. 1945 § 1, 10-13-15).

5.40.060 When a permit is not required.

The provisions of this chapter shall not apply to the following classes of individuals or businesses while engaged in the performance of their duties:

- (a) Physicians, surgeons, chiropractors, osteopaths, nurses or any physical therapists who are duly State-licensed to practice their respective professions in the State of California. The exemption provided by this section shall not apply to massage therapists.
- (b) Barbers, beauticians, and cosmetologists who are duly licensed under the laws of the State of California while engaging in practices within the scope of their licenses, and businesses operating with this class of individuals, like nail salons; except that this exemption from a City permit shall apply solely to the massaging of the neck, face, scalp, foot, ankle and/or calf of the customers.
- (c) Hospitals, nursing homes, sanatoriums, or any other health facilities duly licensed by the State of California.
- (d) Accredited high schools, junior colleges, and colleges or universities whose coaches and trainers are acting within the scope of their employment.
- (e) Trainers of amateur, semi-professional or professional athletes or athletic teams while engaging in their training responsibilities for and with athletes; and trainers working in conjunction with a specific athletic event such as road races, track meets, triathlons, biathlons or similar single-occurrence athletic or recreational events.

- (f) Other single-event massage practice occurring within the workplace or similar business location where the massage shall be restricted to the shoulders, neck, face and/or scalp of the customer.
- (g) If a duly licensed acupuncturist wishes to provide massage therapy services to his or her clients by an individual(s) other than him or herself, said individual(s) must have a valid CAMTC certificate and the office of the acupuncturist shall be subject to all the provisions of this chapter, as well as any other applicable provisions of the SCCC. (Ord. 1945 § 1, 10-13-15).

5.40.070 Massage establishment permit application and fee.

The following provisions shall apply to the permit application process:

- (a) Any person, as defined herein, desiring to obtain a permit to operate a massage establishment shall make application to the Chief of Police.
- (b) Each application for a massage establishment permit shall be accompanied by a nonrefundable fee. The fee paid shall be to defray in part the cost of the investigation and report required by this chapter. This massage establishment permit registration fee shall be determined from time to time by the City Council by resolution to properly reflect cost recovery adjustments it deems appropriate. A copy of the receipt for the nonrefundable fee shall accompany the application.
- (c) The massage establishment permit application and fee required under this section shall be in addition to any license, permit, or fee required under any other section of this Code or other City law or regulation.
- (d) The application and fee for a massage establishment permit does not authorize a massage establishment to operate until such permit has been granted and the business tax has been paid to the municipal services/business tax division of the Finance Department.
- (e) Each applicant for a permit shall submit the following information under penalty of perjury:
- (1) The full, true name under which the business will be conducted.
 - (2) The present or proposed address where the business is to be conducted.
 - (3) The applicant's full, true name, and other names used, date of birth, valid California driver's license number (or California identification number), Social Security number (unless prohibited by law), present residence address and telephone number, gender, height, weight, color of hair, and color of eyes. Additionally, applicant shall provide original documentation to verify both the applicant's identity and employment authorization (if applicable). Documentation to satisfy this requirement may include, but is not limited to, a California driver's license, California identification card, Social Security card, resident alien ("green") card, United States passport, unexpired foreign passport that contains a temporary I-551 stamp, or an unexpired employment authorization document issued by the United States government.
 - (4) The previous two residences of the applicant and the inclusive dates at each address.

(5) The applicant's business, occupation, and employment history for seven years preceding the date of application and the inclusive dates of same. Applicant shall provide proof that within the seven years preceding submission of the application, the applicant has not:

(A) Had a massage establishment, massage therapist, or other similar permit or license denied, suspended, or revoked by the City, or any other State or local agency;

(B) Engaged in conduct or operated a massage or similar establishment in a manner that would be grounds for denial, suspension, or revocation of a permit under this chapter; or

(C) Owned or managed a massage or similar establishment where persons required to be licensed were allowed to work without the required license or permit.

(6) A statement of the permit history of the applicant by identifying whether or not such person has ever held a professional or vocational license or permit issued by any agency, board, city, county, territory, or state; the date of issuance of such a permit or license; whether or not the permit or license is still in effect; if the permit or license is no longer in effect, was it revoked or suspended, and, if so, the reason(s) therefor.

(7) A statement that within the seven years preceding submission of the application, no injunction has been issued under the Red Light Abatement Law (Penal Code Section [11225](#) et seq.) against the applicant or against a business establishment where the applicant was a permittee or employee, and that the applicant has not been convicted in a court of competent jurisdiction of an offense involving:

(A) Conduct which requires registration under California Penal Code Section [290](#);

(B) Conduct which is a violation of the provisions of California Penal Code Section [314](#), [315](#), [316](#), [318](#), or [647](#)(a) or (b);

(C) Crimes that are designated in Government Code Section [51032](#); or

(D) Any other crime involving dishonesty, fraud, deceit, violence or moral turpitude.

Convictions under the laws of other states or countries which proscribe the same or similar conduct as the afore-designated California crimes shall be considered. Convictions that have been expunged must be reported, and all injunctions for nuisances under Penal Code Section [11225](#) or similar laws must also be reported.

For purposes of this criminal conviction portion of the statement, if the applicant is a corporation, the statement shall apply to the stockholders holding more than five percent of the stock of that corporation, the officers, and/or directors. If the applicant is a partnership, the statement shall apply to all partners, both general and limited.

(8) A complete list of all services to be provided with definitions and/or descriptions attached.

(9) The name, address, and date of birth of each massage therapist or employee who is or will be employed at the massage establishment.

(10) The original valid and current State certificate issued by CAMTC for each massage therapist who will work in the massage establishment.

- (11) The name and address of any massage business or other like establishment owned or operated by any person whose name is required to be given pursuant to this section.
- (12) Upon request of the Chief of Police, the applicant shall be required to furnish fingerprints for the purpose of establishing identification. The fingerprints will be taken at a place designated by the Chief of Police. Any required fingerprinting fee shall be the responsibility of the applicant.
- (13) The applicant shall have his or her picture taken by the Santa Clara Police Department or otherwise supply a photograph as directed by the Department.
- (14) A description of any other business to be operated on the same premises, or on adjoining premises, owned or controlled by the applicant.
- (15) The name and address of the owner and lessor of the real property upon or in which the business is to be conducted. In the event the applicant is not the legal owner of the property, the application must be accompanied by a copy of the lease and a notarized acknowledgment from the owner of the property that a massage establishment will be located on his/her property.
- (16) Written authorization for the City, its agents and employees, to seek information and to conduct an investigation into the truth of the statements set forth in the application and into the background of the applicant and the responsible, managing officer/employee.
- (17) Proof of massage malpractice insurance in the sum of not less than one million dollars (\$1,000,000.00) per massage therapist licensed, or to be licensed, at the massage establishment; this requirement can be satisfied by malpractice insurance being provided in the name of the individual massage therapist.
- (18) The applicant shall advise the City in writing of any change of address or change in fact(s) represented to City which may occur during the City's processing of the application for a massage establishment permit.
- (19) A copy of the floor plan approved as part of any conditional use permit required under Chapter [18.104](#) SCCC, drawn to scale showing: entrances; exits; windows; interior doors; restrooms; all other separately enclosed rooms with dimensions, including, but not limited to, closets, storerooms, break rooms, and changing rooms; and location of massage tables and chairs.
- (f) The Chief of Police has up to sixty (60) days after submission of all required information to investigate the application and the background of the applicant. Upon the completion of the investigation, the Chief of Police may grant the permit, with or without conditions, if, upon review of the requirements listed in subsections (e)(1) through (19) of this section, inclusive, all of the following are found:
- (1) The required fee has been paid;
 - (2) The applicant has not made a material misrepresentation in the application;
 - (3) The permit as requested by the applicant would comply with all applicable laws, including, but not limited to, health, zoning, fire and safety requirements and standards; and
 - (4) The applicant complies with the requirements of this chapter.

(g) If, following investigation of the applicant, the Chief of Police cannot make the findings required in subsection (f) of this section, the application shall be denied by dated, written notice which sets forth the reasons for denial. (Ord. 1945 § 1, 10-13-15).

5.40.080 Massage establishment operating requirements.

No person shall engage in, conduct, carry on, or permit to be engaged in, conducted, or carried on any massage establishment activity or conduct unless each and all of the following requirements are met:

(a) Each person employed or acting as a massage therapist shall have a valid CAMTC certificate and shall carry on his/her person his/her valid CAMTC-issued identification card at all times while providing services. It shall be unlawful for any owner, operator, manager, and/or responsible, managing officer/employee to employ or permit a person to act as a massage therapist who is not in possession of a valid CAMTC certificate or to permit him/her to provide services without carrying his/her CAMTC-issued identification card.

(b) The possession of a valid massage establishment permit does not authorize the permit holder or any other person to perform work for which a valid CAMTC certificate is required.

(c) It is unlawful for a person to own or operate a massage establishment that does not meet one of the following conditions: (1) the massage establishment is a sole proprietorship and the sole proprietor possesses a valid CAMTC certificate; or (2) the massage establishment is permitted pursuant to this chapter and only employs or uses massage therapists who possess a valid CAMTC certificate.

(d) Massage shall be provided or given only between the hours of 6:00 A.M. and 10:00 P.M. No massage establishment shall be open and no customer shall be in the establishment between 10:00 P.M. and 6:00 A.M. Patrons and visitors shall only be permitted in the reception area of the massage establishment during the hours of operation, and patrons shall only be permitted in massage treatment areas if at least one massage therapist is on the premises.

(e) A list of services available and the cost of such services shall be posted in an open public place within the premises, and any posted signs which are in a language other than English shall also be posted in English. No owner, operator, manager, and/or responsible managing officer/employee shall permit, and no massage therapist shall offer or perform, any service other than those posted.

(f) The massage establishment permit and an original valid CAMTC certificate of each and every massage therapist providing services in the establishment shall be displayed in an open and conspicuous place on the premises.

(g) Every massage establishment shall keep a written record of:

- (1) The date and hour of each service provided;
- (2) The name of each patron and the service received; and
- (3) The name of the massage therapist administering the service.

Said records shall be open to inspection to City officials, including, but not limited to, the Police Department and the City Attorney's office, which are charged with enforcement of this chapter. These records may not be used by the permittee for any other purpose than as records of service provided, and they shall not be provided to other parties by the massage establishment or service. Said records shall be retained on the premises of the massage establishment business office for a period of not less than two years.

(h) Massage establishments shall at all times be equipped with an adequate supply of clean sanitary towels, coverings and linens. Clean towels, coverings and linens shall be stored in enclosed cabinets. Towels and linens shall not be used on more than one patron, unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one patron. Soiled linens and paper towels shall be deposited in separate, approved receptacles.

(i) Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bath rooms, whirlpool baths and pools shall be thoroughly cleaned and disinfected with a commercial disinfectant, as needed, but at least once each day the premises are open. Bathtubs shall be thoroughly cleaned with a disinfectant after each use. All walls, ceilings, floors, and other physical facilities for the establishment must be in good repair, and maintained in a clean and sanitary condition.

(j) Instruments utilized in performing massage shall not be used on more than one patron unless they have been sterilized using approved sterilization methods.

(k) All employees, including massage therapists, shall wear clean, nontransparent outer garments. All employees shall not be dressed in attire that has been deemed by CAMTC to constitute unprofessional attire based on the custom and practice of the profession in California.

(l) No person shall enter, be or remain in any part of a massage establishment while in possession of an open container of alcohol, or while consuming or using any alcoholic beverage or drugs except pursuant to a prescription for such drugs. The owner, operator, manager, and/or responsible managing officer/employee shall not permit any such person to enter or remain upon such premises.

(m) No alcoholic beverages shall be stored, sold, served, or furnished on the premises of any massage establishment without a valid alcoholic beverage license from the State and conditional use permit from the City.

(n) No massage establishment granted a permit under the provisions of this chapter shall place, publish or distribute or cause to be placed, published or distributed, including, but not limited to, on the Internet, any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective customers that any service is available other than those services described in [SCCC 5.40.020\(m\)\(1\)](#), nor shall any massage establishment 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 as described in [SCCC 5.40.020\(m\)\(1\)](#).

(o) No massage may be carried on within any cubicle, room, booth or any area within a massage establishment which is fitted with a door capable of being locked. All doors to dressing rooms and

treatment rooms shall open inward. Draw drapes, curtain enclosures, or accordion-pleated closures are acceptable on all inner dressing and treatment rooms in lieu of doors.

(p) A massage shall not be given unless the patron's genitals are fully covered.

(q) No massage establishment shall be open for business without at least one massage therapist on the premises at all times who is in possession of a current, unrevoked CAMTC certificate.

(r) A massage table or chair shall be used for massage. No mattresses shall be placed on the floor. All massage tables shall be at least two feet away from all walls at all times. This Subsection (r) shall not apply to qualified Shiatsu and Thai massage therapists.

(s) No condoms shall be kept in the establishment unless they are the personal property of persons on site, and they are for the individual's personal use.

(t) Unlicensed massage therapists and those persons other than scheduled customers shall not loiter, congregate or remain on the premises during the massage establishment's business hours.

(u) Proof of bona fide employment must be shown by written payroll documentation evidencing the employer's compliance with California Employment Development Department (EDD) requirements for the withholding of income tax, unemployment insurance contributions and disability contributions from the employee and written payroll documentation of the employer's compliance with Internal Revenue Service (IRS) requirements for the withholding of Federal income taxes, Social Security (FICA) and Medicare contributions from the employee. Such written documentation can include, but is not limited to, W-2 wage and tax statements.

(v) No massage establishment shall be used for residential purposes.

(w) It is unlawful for an owner or operator to fail to notify the Chief of Police in writing of any changes in massage therapists, including proof of CAMTC certificate, or of a change in ownership interest or designated operator within thirty (30) calendar days of such change. (Ord. 1945 § 1, 10-13-15; Ord. 1955 §§ 1, 2, 5-17-16).

5.40.090 Massage establishment facilities regulations.

Every massage establishment shall maintain facilities meeting the following requirements:

(a) Any signs shall be in conformance with the current ordinances of the City.

(b) Minimum lighting shall be provided in accordance with Article 220 of the National Electrical Code, and, in addition, at least one artificial light of not less than four hundred fifty (450) lumens shall be provided in each room or enclosure where massage services are performed on patrons.

(c) Minimum ventilation shall be provided in accordance with the Uniform Building Code.

(d) Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided and utilized.

(e) Hot and cold running water shall be provided at all times.

(f) Closed cabinets shall be provided for storage of clean linens.

(g) Adequate dressing, locker and toilet facilities shall be provided for patrons.

(h) A minimum of one wash basin for employees shall be provided at all times. The basin shall be located within or as close as practicable to the area devoted to performing of massage services. Sanitary towels shall also be provided at each basin.

(i) Pads used on any massage tables shall be covered with a durable, washable plastic or other acceptable waterproof material capable of being thoroughly cleaned and disinfected.

(j) All exterior doors (except those used only for employee entrance to and exit from the massage establishment) shall remain unlocked during business hours. There shall be no buzzer, alarm, or intercom system for purposes of entering the exterior doors during business hours.

(k) Proof of compliance with all applicable provisions of the City Code shall be provided prior to the issuance of any permit. (Ord. 1945 § 1, 10-13-15).

5.40.100 Inspection by officials.

The City officials charged with investigating and enforcing compliance with this chapter, including, but not limited to, the City's Police Department, Fire Department, and the City's Building Official, or their designees, shall have the right to enter the premises from time to time during regular business hours for the purpose of making reasonable inspections to observe and enforce compliance with building, fire, electrical, and plumbing regulations, and to enforce compliance with applicable regulations, laws, and the provisions of this chapter. (Ord. 1945 § 1, 10-13-15).

5.40.110 Permits nonassignable.

No massage establishment permit may be sold, transferred or assigned by the permittee, 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 deemed terminated and void, except for the following:

(a) If the permittee is a partnership and one or more of the partners should die or cease to be a partner, one or more of the surviving/remaining partners may acquire, by purchase or otherwise, the interest of the deceased/departed partner or partners without effecting a surrender or termination of such permit. An original partner must remain a partner for this exception. In each case the permittee shall thereafter be deemed to be the surviving/remaining partner(s); or

(b) If the permit is issued to a corporation, stock may be sold, transferred, issued, or assigned to stockholders who have been named on the application. If any stock is sold, transferred, issued, or assigned to a person not listed on the application as a stockholder, the permit shall be deemed terminated and void unless the new stockholders are identified within ten days of transfer and they meet all requirements under this chapter for stockholders. (Ord. 1945 § 1, 10-13-15).

5.40.120 Change of location or change in name.

The following is applicable to a change of location or a change of name:

- (a) A change of location of a massage establishment may be approved by the Chief of Police, with the prior approval of the Director of Planning and Inspection and the Fire Chief, or their designated representatives, provided all ordinances and regulations of the City are complied with prior to the relocation or change of name. This may include applying for and receiving land use approvals, such as for a conditional use permit or variance.
- (b) No permittee shall operate or conduct any massage establishment under any name or designation not specified in the approved permit.
- (c) Any application for an expansion of a building or other place of business of a massage establishment shall require compliance with this chapter; no expansion of a nonconforming location shall be permitted. (Ord. 1945 § 1, 10-13-15).

5.40.130 New massage therapists – Notification.

Notification to the City of new massage therapists shall be as follows:

- (a) The holder of the massage establishment permit shall notify the Chief of Police, in writing, of the name and address of each person employed as a massage therapist at such establishment prior to the employee engaging in massage service to the public.
- (b) The requirements of this section are in addition to the other provisions of this chapter. Nothing contained herein shall relieve the permittee of the responsibility of ascertaining, prior to employment, that said person has a current and unrevoked CAMTC certificate. (Ord. 1945 § 1, 10-13-15).

5.40.140 Renewal of permits – Massage establishments.

Renewal of permits for massage establishments issued under SCCC [5.40.070](#) shall be as follows:

- (a) Massage establishment permits shall expire on the one-year anniversary date of issuance, unless sooner suspended or revoked.
- (b) At least thirty (30) days prior to expiration of the one-year permit period, holders of the respective permit(s) shall apply for renewal. If the renewal request is not timely submitted, upon expiration of the one-year period for the permit, the permit shall be deemed expired and no privilege to provide massage shall exist until a new application has been approved. The application for renewal shall include a written statement, made under penalty of perjury, identifying changes, if any, from the information submitted at the time of the original permit application. (For example, new residential addresses, new telephone numbers, and changes to pertinent criminal history shall be submitted.)
- (c) Renewals shall be processed and investigated. The applicant is required to submit, under penalty of perjury, that information which has changed from the last application or renewal. Holders of massage establishment permits and/or massage therapist permits shall submit a new certificate each year as required by this section.

(d) A renewal fee shall be paid in a sum that shall be determined from time to time by the City Council by resolution to properly reflect cost recovery adjustments it deems appropriate. (Ord. 1945 § 1, 10-13-15).

5.40.150 Application of regulations to existing massage establishments and massage therapists.

Pre-existing, legal permits for massage establishments shall be treated as follows:

(a) The provisions of this chapter shall be applicable to all persons and businesses whether the business was established before or after the effective date of this chapter, except that massage establishments legally in business prior to said effective date shall expire on the one-year anniversary date of its permit issuance, unless sooner suspended or revoked. Exemptions from the requirements of this chapter for duly authorized and legally existing nonconforming establishments may be done on a case by case basis.

(b) Massage therapists who have valid massage therapist permits shall have until the expiration of their current permit to apply for a CAMTC certificate under the terms of this chapter, but shall otherwise comply with the regulations set forth herein within thirty (30) days. (Ord. 1945 § 1, 10-13-15).

5.40.160 Prohibited conduct.

Prohibited conduct shall include, but not be limited to, the following prohibited conduct:

(a) It shall be unlawful for (1) any massage therapist, or other person present on the business premises, to massage the genital area of any patron or (2) for any operator of a massage establishment to allow or permit such massage.

(b) It shall be unlawful for (1) any massage therapist to be other than fully clothed at all times in nontransparent clothing that does not expose their genitals, pubic area, buttocks or chest or (2) for any operator of a massage establishment to allow or permit clothing that does not conform to this requirement.

(c) Duly licensed massage therapists may engage in off-site massage services when all of the requirements of this chapter have been met. Massage therapists may not administer massage services in a private residence unless a bona fide medical request has been made in writing prior to the massage services. A bona fide medical need will be deemed appropriate when a licensed physician or chiropractor has given the client a written prescription for the massage services to be administered at the residence of the recipient of the massage.

(d) It shall be unlawful for any holder (permittee) of a massage establishment permit and/or holder of a CAMTC certificate to engage in prohibited conduct as defined in Business and Professions Code Section [4609](#) or any other State or local law and in violation of any of the requirements of this chapter. (Ord. 1945 § 1, 10-13-15).

5.40.170 Enforcement – Suspension or revocation of massage establishment permit.

(a) Violations of any provisions of this chapter shall be treated as a strict liability offense, regardless of intent. Any person violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in an amount not to exceed one thousand dollars (\$1,000.00), or imprisonment in the county jail not to exceed six months, or both. Any violation may also be subject to civil penalties and any other legal remedy provided in this Code or State law. Each violation described in this chapter may be charged as a separate count for each day the violation occurs.

(b) In addition to the legal remedies provided for in this Code, the violation of any provision of this chapter shall be and the same is hereby declared to be unlawful and a public nuisance. The City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal or injunction thereof, in the manner provided by law. The City Attorney shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as shall abate or remove such massage establishment and restrain and enjoin any person from operating, conducting or maintaining a massage establishment contrary to the provisions of this chapter.

(c) Any violation of the provisions of this chapter shall constitute a separate offense for each and every day during which such violation is committed or continued.

(d) The Chief of Police may revoke or suspend a massage establishment permit if any of the following are found:

- (1) The holder of the permit does not possess the qualifications for the permit as required by this chapter;
- (2) The holder of the permit has been convicted of any violation of the provisions of this chapter or any lesser included offense;
- (3) The holder of the permit has made a material misrepresentation on the permit application or renewal; or
- (4) The holder of the permit has operated the massage establishment in a manner which violates any of the provisions of this chapter, any conditions of the permit, or any of the laws which would have been grounds for denial of the permit.

For purposes of this section, the holder of the permit (permittee) in the massage establishment permit context shall include the managing, responsible officer/employee. Furthermore, the holder of the permit shall be responsible for those acts of employees and massage therapists which are done in the course and scope of their employment. The course and scope of employment is evidenced by a course of conduct occurring on the premises of the massage establishment. (Ord. 1945 § 1, 10-13-15).

5.40.180 Procedure for revocation or suspension of massage establishment permit.

Revocations and suspensions shall be administered as follows:

- (a) Whenever the Chief of Police has reasonable cause to believe that grounds for the suspension or revocation of a permit exists, he/she shall give the holder of the permit written notice stating the alleged grounds for the suspension or revocation and the effective date of the suspension or revocation. This notice will be by personal delivery or by deposit in the United States mail sent to the address shown on the last application or renewal. The decision of the Chief of Police to revoke or suspend a massage establishment permit may be appealed to the City Manager, or designee. The notice shall provide the permit holder with information on the appeal process.
- (b) Upon receipt of a request for an appeal hearing, the City Manager, or designee, shall conduct a hearing within forty-five (45) days of the request. The City Manager, or designee, shall notify the permit holder in writing of the date, time, and place of the hearing. The hearing shall not be less than ten days after the service of the notice of hearing by postage of the notice by United States mail or by personal service.
- (c) At the hearing, both the holder of the permit and the Chief of Police shall have the right to appear and be represented by counsel and to present evidence and arguments which are relevant to the grounds for the appeal, as stated in the written grounds for the appeal hearing. Within ten working days of the conclusion of the hearing, the City Manager shall issue a written decision which states whether the decision of the Chief of Police is upheld, modified, or reversed, the length of any suspension, and the effective date of the suspension or revocation. The decision of the City Manager shall be served on the holder of the permit by certified mail, return receipt requested, or by personal service.
- (d) The decision of the City Manager shall be final.
- (e) The burden of proof is on the City in any hearing or other matter under this chapter. The City will be required to prove its case by the preponderance of evidence standard.
- (f) Upon a written decision of the City Manager which suspends or revokes a permit, the holder of the permit shall surrender the permit to the Chief of Police immediately after service of the notice of the decision. (Ord. 1945 § 1, 10-13-15).

5.40.190 Maintenance and review of massage therapy organization certificates.

Every massage business establishment shall:

- (a) Provide the Santa Clara Police Department with a copy or other evidence of the valid CAMTC certificate of every person who is employed or retained by the business or establishment to provide massage therapy within thirty (30) calendar days of the commencement of such person's period of employment or service for the business.
- (b) Maintain on its premises a copy or other evidence of each such CAMTC certificate for review by the Santa Clara Police Department. (Ord. 1945 § 1, 10-13-15).

Code Enforcement Juan Padilla can further assist with the analysis of this business location whether it meets the current zoning requirements. He can be reached at:

ipadilla@santaclaraca.gov

(408) 615-2461

Community Services Officer Rachel Thomas handles all licensing for these types of businesses at the Santa Clara Police. She may be reached at:

rthomas@santaclaraca.gov

(408) 615-4867/

Sgt. Kevin Fraser

Community Services Unit

(408) 615-4866

kfraser@santaclaraca.gov

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