

ORDINANCE NO. \_\_\_\_\_

CITY COUNCIL, CITY OF \_\_\_\_\_, STATE OF CALIFORNIA

\* \* \* \* \*

**AN ORDINANCE REPEALING AND REPLACING  
CHAPTER 6.24 OF THE  
CITY OF PLEASANTON MUNICIPAL CODE,  
RELATING TO THE REGULATION OF MASSAGE BUSINESSES**

The City Council of the City of Pleasanton, State of California,  
ORDAINS as follows:

**SECTION 1.** FINDINGS. In enacting these regulations the City Council recognizes that massage is a viable professional field offering the public valuable health and therapeutic services. The City Council finds and declares as follows:

(a) The registration and health and safety requirements imposed by this chapter are reasonably necessary to protect the health, safety and welfare of the citizens of the City.

(b) Massage businesses have been found to present opportunities for prostitution, human trafficking and other unlawful activity, and, in fact, officers have made arrests for prostitution and human trafficking in massage businesses located throughout the Bay Area. Municipalities within the Tri-Valley area, including Pleasanton, have also reported instances where acts of prostitution have occurred in massage businesses.

(c) The California legislature and the courts have long recognized the necessity of imposing reasonable regulations and standards for the operation of massage businesses, including but not limited to minimum educational and experience requirements, passage of a practical examination of competence, sanitary conditions, hours of operation, and other operational regulations designed to minimize opportunities for illegal activities and to ensure the protection of the health, safety and welfare of citizens.

(d) There is a significant risk of injury to clients of massage businesses by improperly trained or poorly educated massage practitioners.

(e) The presence of businesses known or reputed to be places of prostitution, human trafficking or other illegal activity can have an adverse impact on surrounding properties, may result in blight, foster further illegal activities, such as depriving employees of workers compensation and unemployment benefits, and generally become a public nuisance.

**SECTION 2.** Chapter 6.24 of the City of Pleasanton Municipal Code is hereby repealed.

**SECTION 3.** New Chapter 6.24 (Massage Businesses) of the City of Pleasanton Municipal Code is adopted, to read as follows:

## **Chapter 6.24 MASSAGE BUSINESSES**

### **6.24.010 PURPOSE AND INTENT.**

A. In enacting this chapter, the City Council recognizes that commercial Massage Therapy is a professional pursuit which can offer the public valuable health and therapeutic services. The City Council further recognizes that, unless properly regulated, the practice of Massage Therapy and the operation of Massage Businesses may be associated with unlawful activity and pose a threat to the quality of life in the local community. Accordingly, it is the purpose and intent of this chapter to protect the public health, safety, and welfare by providing for the orderly regulation of Businesses providing Massage Therapy services, discouraging prostitution, human trafficking and related illegal activities carried on under the guise of Massage Therapy, and establishing certain sanitation, health, and operational standards for Massage Businesses.

B. Furthermore, it is the purpose and intent of this chapter to address the negative impacts identified in the City Council's findings to reduce or prevent neighborhood blight and to protect and preserve the quality of City neighborhoods and commercial districts; and to enhance enforcement of criminal statutes relating to the unlawful conduct of Operators, Employees and Independent Contractors of Massage Businesses.

C. It is the Council's further purpose and intent to rely upon the uniform statewide regulations applicable to Massage Practitioners and Massage Businesses

that were enacted by the State Legislature in 2008 as Business and Professions Code sections 4600 *et seq.* by Senate Bill 731, and amended in 2011 by Assembly Bill 619 and in 2014 by Assembly Bill 1147, to rely upon the City’s regulations applicable to Massage Technicians until their Massage Technician Permits expire, to restrict the commercial practice of Massage in the City to those individuals duly certified to practice by the California Massage Therapy Council or to those individuals who, as of the Effective Date of this Ordinance, have Massage Technician Permits issued by the City and to provide for the registration and regulation of Massage Businesses for health and safety purposes to the extent allowed by law.

**6.24.020 DEFINITIONS.**

For the purposes of this Chapter, unless the particular provision or the context otherwise clearly requires, the definitions in this section shall govern the construction, meaning, and application of words and phrases used in this Chapter:

A. “Business” means a Massage Business and includes all efforts concerning Massage about which a Person can be employed for the purpose of producing a livelihood or profit and, for the purposes of this Chapter, shall include, without limitation, the advertising and soliciting of Massages.

B. “California Massage Therapy Council” or “CAMTC” means the Massage Therapy Organization formed pursuant to Business and Professions Code section 4600.5.

C. “Certified Massage Practitioner” means any individual certified by the California Massage Therapy Council as a Certified Massage Therapist under California Business and Professions Code section 4604 or as a Certified Massage Practitioner under California Business and Professions Code section 4604.

D. “City Manager” means the City Manager of the City of Pleasanton or the City Manager’s designee.

E. “City Registration Certificate” means a registration certificate issued by the Police Chief upon submission of satisfactory evidence that a Massage Business employs or uses only Certified Massage Practitioners or Massage Technicians pursuant to this Chapter.

F. “Client” means the customer or patron who pays for or receives a Massage.

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

H. “Employee” means any Person, Owner, Operator, manager, supervisor, administrator or worker who renders services of any nature in the operation of a Massage Business and who, as a result, receives Compensation.

I. “Independent Contractor” means an individual with whom a Massage Business has entered into a contract by which the individual may render services to the Business, and who, as a result, receives Compensation.

J. “Massage” or “Massage Therapy,” means and refers to any method of treating the external parts of the body for remedial, health, or hygienic purposes by means of pressure on or friction against, or stroking, kneading, rubbing, tapping, stretching, pounding, vibrating or stimulating the body, with or without the aid of any mechanical or electrical apparatus or appliances; or with or without supplementary aids, such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, organic aids or other similar preparations commonly used in Massage; or by baths, including but not limited to Turkish, Russian, Swedish, Japanese, vapor, shower, electric tub, sponge, mineral, fomentation, or any other type of bath. As used in this Chapter Massage includes bodywork, somatic therapies and acupressure.

K. “Massage Business” means any Business that offers Massage Therapy in exchange for Compensation, whether at a fixed place of business or at a location designated by a Client through Offsite Massage. Any Business that offers any combination of Massage Therapy and bath facilities – including, but not limited to, showers, baths, wet and dry heat rooms, pools and hot tubs – shall be deemed a Massage Business under this Chapter. The term Massage Business includes a Certified Massage Practitioner or Massage Technician who is the sole owner, Operator and Employee of a Massage Business operating as a Sole Proprietorship, as well as a Massage Business which employs Massage Practitioners or Massage Technician, or which hires Massage Practitioners or Massage Technicians as Independent Contractors.

L. "Massage Technician" means any individual who is not a Certified Massage Practitioner but who, as of the effective date of this Ordinance, has a current and valid Massage Technician Permit.

M. "Massage Technician Permit" means the permit issued to an individual by the City under Ordinance 1970 (now repealed) by which an individual is permitted to provide Massage services for Compensation.

N. "Offsite Massage" means the engaging in or carrying on of Massage for Compensation in a location other than the business operation's address set forth in the Massage Business's City Registration Certificate or the engaging in or carrying on of Massage when the Massage Business Owner does not have a fixed place of business.

O. "Operator" or "Massage Business Operator" means any and all Owners and Massage Business Owners.

P. "Owner" or "Massage Business Owner" means any of the following persons:

1. Any Person who owns or operates a Massage Business, including a Sole Proprietorship.
2. Any Person who is a general partner of a general or limited partnership that owns a Massage Business.
3. Any person who has a five percent or greater ownership interest in a corporation that owns a Massage Business.
4. Any person who is a member of a limited liability company that owns a Massage Business.
5. Any person who has a five percent or greater ownership interest in any other type of business association that owns a Massage Business.
6. Any person who in the City of Pleasanton owns property, or who rents or leases property, in which a Massage Business is conducted.

Q. "Person" means any individual, firm, association, partnership, corporation, joint venture, limited liability company, or combination of individuals, of whatever form or character.

R. "Police Chief" means the Police Chief of the City of Pleasanton and the Police Chief's designee.

S. "Practitioner" or "Massage Practitioner" shall be used interchangeably and mean any person who administers Massage to another person, for any Compensation (whether for the Massage, as part of other services or a product, or otherwise).

T. "Reception and Waiting Area" means an area immediately inside the front door of the Massage Business dedicated to the reception and waiting of Clients of the Massage Business and visitors, and which is not a Massage room or otherwise used for providing a Massage.

U. "Registration" means the registration required by this Chapter to operate a Massage Business.

V. "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.

W. "Sole proprietorship" means and includes any legal form of business organization where the Business Owner is the only Person to operate, or by employed by, the Massage Business.

X. "Solicit" means to verbally or non-verbally request, seek, ask, demand or otherwise arrange for the provision of services.

Y. "Special Event" means any seminar, presentation, symposium, health fair, fair, street fair, demonstration or similar event, venue or gathering.

Z. "Student Clinic" means a clinic related to a course(s) offered by and at a School of Massage in Pleasanton during which students provide to the public Massages related to the course(s) in which the students are enrolled.

#### **6.24.030 CAMTC CERTIFICATION AND LOCAL REGISTRATION REQUIRED; LIMITED EXCEPTIONS**

A. Individuals. It shall be unlawful for any individual to provide within the City of Pleasanton Massage for Compensation as a Sole Proprietorship, an Employee of a Massage Business, an Independent Contractor or in any other capacity unless that individual is a Certified Massage Practitioner.

B. Businesses. It shall be unlawful for any Business to provide within the City of Pleasanton Massage for Compensation unless all individuals, whether as a Sole Proprietorship, an Employee, an Independent Contractor or in any other capacity, are Certified Massage Practitioners or are Massage Technicians and the Massage Business has obtained a valid City Registration Certificate as provided in this Chapter.

C. Notwithstanding subsection A of this Section 6.24.030, a Massage Technician may provide within the City of Pleasanton Massage for Compensation as a Sole Proprietorship, an Employee of a Massage Business, an Independent Contractor or in any other capacity.

#### **6.24.035 EXPIRATION OF MASSAGE TECHNICIAN PERMITS**

No Massage Technician Permit shall be renewed or extended beyond its current expiration date.

#### **6.24.040 MASSAGE BUSINESS REGISTRATION CERTIFICATE**

A. Application. The registration application for a City Registration Certificate shall include all of the following:

1. Legal name of the Massage Business.
2. Address and telephone number of the Massage Business.
3. Legal names, present and past, of all Massage Business Owners.
4. A list of all of the Massage Business's Employees and Independent Contractors and, as to Employees and Independent Contractors who will be performing Massage, copies of their CAMTC certifications or their Massage Technician Permits.
5. Residence address, telephone number (land line and mobile) and email addresses of all Massage Business Owners.
6. Business address and telephone number of all Massage Business Owners.
7. The form of business under which the Massage Business will be operating (e.g., Sole Proprietorship, corporation, general or limited partnership, limited liability company, or other form).

8. As to any applicant who has ever applied for a professional or vocational license, permit or certificate related to Massage from any agency, board, city, county, city and county, territory, state or other governmental jurisdiction and such jurisdiction denied the application, the date of such application for such license, permit or certificate, the name of the jurisdiction that denied such license, permit or certificate and the reasons for such denial.

9. As to any applicant who has ever held a professional or vocational license, permit or certificate related to Massage issued by any agency, board, city, county, city and county, territory, state or other governmental jurisdiction under Chapter 10.5 of the State Business and Professions Code, the date of issuance of such license, permit or certificate, whether such license, permit or certificate is currently in effect and, if not, whether it has been revoked, suspended, restricted or lapsed and, if such license, permit or certificate has been revoked, suspended or restricted, the reasons for such revocation, suspension or restrictions and the name(s) of the jurisdiction which revoked, suspended or restricted such license, permit or certificate.

10. Each Massage Business Owner who is not a CAMTC Certified Massage Practitioner or who does not hold a Massage Technician Permit, other than an Owner as defined in Section 6.24.20 P. 6, shall submit an application for a background check, including the following: the individual's business, occupation, and employment history for the 10 years preceding the date of the application; the inclusive dates of such employment history; the name and address of any Massage Business or similar Business owned or operated by the individual regardless of location.

11. Evidence that the Owners of the Massage Business has commercial general liability insurance in an amount not less than \$1,000,000 per occurrence

12. For all Massage Businesses that has or will have one or more Employees, evidence that the Owners of the Massage Business has workers compensation insurance for its Employees in amounts as required by State law.



13. For all Owners other than an Owner as defined in Section 6.24.20 P. 6, a valid and current driver's license and/or identification issued by a state or federal governmental agency or other photographic identification bearing a bona fide seal by a foreign government.

14. For all Owners, a signed statement that all of the information contained in the application is true and correct; that all Owners shall be responsible for the conduct of the Massage Business's Employees or Independent Contractors providing Massage; and acknowledging that failure to comply with the California Business and Professions Code sections 4600 *et seq.*, any local, state, or federal law, or the provisions of this Chapter may result in revocation of the City Registration Certificate.

B. Issuance. Upon an applicant's providing complete information and documentation set forth in Section 6.24.040 A, the Police Chief shall issue the Massage Business a City Registration Certificate, which shall be valid for two years from the date of issuance.

C. Reapplication following denial of an application or revocation of a City Registration Certificate. For two years after the Police Chief denies an application or renewal of a City Registration Certificate or after the Police Chief revokes a City Registration Certificate, no Person may re-apply for such Certificate.

D. Grounds for denial of a Certificate at a particular location. The Police Chief shall not issue a City Registration Certificate to a Massage Business seeking to operate at a particular location if:

1. another Massage Business is or was operating at that particular location and the City Registration Certificate for that Massage Business is (a) currently suspended under Section 6.24.090, whether pending a hearing or an appeal or following such hearing/appeal or (b) currently revoked under Section 6.24.090 and one year has not lapsed since the revocation;

2. another Massage Business is or was operating at that particular location and that Massage Business has outstanding fines or penalties as a result of violations under this Chapter;

3. another Massage Business is or was operating at that particular location and that Massage Business has been issued an administrative citation for a violation of this Chapter and has failed to contest the citation or the merits of the citation have been upheld; or

4. another Massage Business is or was operating at that particular location and the Massage Business has been issued a citation under Chapter 1.12 of this Code for a violation of this Chapter and has failed to contest the citation or the merits of the citation have been upheld.

E. Amendment. A Massage Business shall apply to the City to amend its City Registration Certificate within 10 business days after any change in the registration information, including, but not limited to, employing or contracting with a Certified Massage Practitioner or Massage Technician, terminating the employment of, or terminating the contractual relationship with, a Massage Practitioner or Massage Technician, the change of the Massage Business's address, or changes in an Owner's addresses and/or telephone numbers.

F. Renewal. A Massage Business shall apply to the City to renew its City Registration Certificate at least 30 days prior to the expiration of the City Registration Certificate. If an application for renewal of a City Registration Certificate and all required information is not timely received and the City Registration Certificate expires, no right or privilege to provide Massage shall exist.

G. Fees. There shall be no fee for the Registration application or the City Registration Certificate, or any amendment or renewal thereof. The provisions of this section shall not prevent the City from establishing fees for safety inspections as may be conducted from time to time by the Police Chief and for the background checks, fingerprinting, and subsequent arrest notification for Owners of a Massage Business who are not CAMTC certified and who are subject to such background checks pursuant to this Chapter. There may also be certain fees for appeals as described below.

H. Transfer. A City Registration Certificate shall not be transferred, sold or assigned. The Police Chief shall immediately revoke a City Registration Certificate if any Owner transfers, sells or assigns a City Registration Certificate and such transfer, sale or assignment shall be void.

#### **6.24.050 OPERATING REQUIREMENTS.**

No Person shall engage in, conduct, carry on, or permit any Massage within the City of Pleasanton unless all of the following requirements are met:

A. During a Massage Practitioner's working hours and at all times when the Massage Practitioner is inside a Massage Business or providing Offsite Massage, a Massage Practitioner shall wear his/her CAMTC-certification or the Massage Technician Permit such that it is clearly visible. All other Employees shall wear a name tag that identifies the Employee's name and job title for the Massage Business.

B. Massage shall be provided or given only between the hours of 7:00 a.m. and 9:00 p.m. No Massage Business shall be open and no Massage shall be provided between 9:00 p.m. and 7:00 a.m. A Massage commenced prior to 9:00 p.m. shall nevertheless terminate at 9:00 p.m., and, in the case of a Massage Business, all Clients and Persons who are not Employees or Independent Contractors shall exit the premises at that time. It is the obligation of the Massage Business to inform Clients of the requirement that services must cease at 9:00 p.m. Other than custodial or maintenance personnel, no Person shall be permitted in the premises of a Massage Business between the hours of 11 p.m. and 6 a.m.

C. A list of the services available and the cost of such services shall be posted in the Reception and Waiting Area, and shall be described in terms that members of the public can readily understand. Offsite Massage providers shall provide such a list to Clients in advance of performing any service. No Massage Business Owner, Employee or Independent Contractor shall Solicit or permit, and no Massage Practitioner shall Solicit, perform, permit or in any other way make available, or permit another Person to Solicit, perform, permit or in any other way make available, any service other than those posted or listed as required herein, nor shall a Massage Business Owner, Employee or Independent Contractor request or charge a fee for any service other than those on the list of services available and posted in the Reception and Waiting Area or provided to the Client in advance of any Offsite Massage.

D. A copy of the CAMTC Certificate or of the Massage Technician Permit of each and every Massage Practitioner employed in or hired by the Business shall be displayed in the Reception and Waiting Area or similar open public place on the

premises. CAMTC Certificates and Massage Technician Permits of former Employees and/or Independent Contractors shall be removed as soon as those Massage Practitioners are no longer employed by, or offering services through, the Massage Business.

E. For each Massage provided, every Massage Business shall keep a complete and legible written record of the following information: the date and hour that service was provided; the service received; the name or initials of the Employee or Independent Contractor entering the information; the name of the Client and the name of the Massage Practitioner administering the service to such Client; and the amount paid for the service, including tip, and the name of the Massage Business administrator as described in subsection F of this Section 6.24.050. Such records shall be open to inspection and copying by police officers or other City officials charged with enforcement of this Chapter. These records may not be used by any Massage Practitioner or Massage Business Owner for any purpose other than as records of service provided and may not be provided to other parties by the Massage Practitioner, the Massage Business Owner or any other Person unless otherwise required by law. Such records shall be retained on the premises of the Massage Business for a period of three years and be immediately available for inspection during business hours.

F. The Massage Business Owner must designate or employ a Massage Business administrator to be in charge of the Massage Business during all times that the Massage Business Owner is not on site and managing the Business. The name of the person currently in charge of the Massage Business must appear in the records of service described in subsection E of this section 6.24.050. Either the Massage Business Owner or the Massage Business administrator must be present at the Massage Business at all times during business hours that:

1. Any Massage Business Employee or Independent Contractor, other than a single receptionist, is present at the Massage Business; or
2. Any member of the public is in any room of the Massage Business other than the Reception and Waiting area.

G. If any door to a Massage Room is closed, no person other than a Client who is inside a Massage room for the purpose of receiving a Massage, the Massage

Practitioner assigned to the Client, a member of the Client's immediate family or a guardian of the Client shall be in the Massage room.

H. Except for a Client who is inside a Massage room for the purpose of receiving a Massage, no other Person shall be permitted in or on the Massage Business premises who is not fully clothed in outer garments of non-transparent material, or who displays or exposes her/himself in underwear, bras, lingerie or swimwear.

I. Clients must pay for the massage, including tips, if any, at the Reception and Waiting Area.

J. Massage Businesses 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 Client, unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one Client. Soiled linens and paper towels shall be deposited in separate receptacles.

K. Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bath rooms, tanning booths, whirlpool baths and pools shall be thoroughly cleaned and disinfected as needed, and at least once each day the Massage Business is open, with a disinfectant. Bathtubs shall be thoroughly cleaned after each use with a disinfectant. All walls, ceilings, floors, and other physical facilities for the Business must be in good repair, and maintained in a clean and sanitary condition.

L. Instruments utilized in performing Massage shall not be used on more than one Client unless they have been sterilized, using approved sterilization methods.

M. All Massage Business Owners, Employees and Independent Contractors shall wear clean, non-transparent outer garments. Said garments shall not expose their genitals, pubic areas, buttocks, or chest, and shall not be worn in such manner as to expose the genitals, pubic areas, buttocks, or chest. For the purposes of this section, outer-garments means a garment worn over other garments and does not include garments like underwear, bras, lingerie or swimwear. No underwear, bras, lingerie or swimwear shall be hung to dry or otherwise displayed in a Massage Business.

N. No Client shall use any shower facilities of the Massage Business unless such Client is wearing slip-resistant sandals or flip-flops in the shower facilities. All

footwear that is provided for use by Clients either shall be fully disposable and not used by more than one Client or shall be fully disinfected after each use.

O. No Person shall enter, be, or remain in any part of a Massage Business while in possession of an open container of alcohol, or consuming or using any alcoholic beverage or drugs except pursuant to a prescription for such drugs. The Massage Business Owner, Employees and Independent Contractors shall not permit any such Person to enter or remain in the Massage Business premises.

P. No Massage Business shall operate as a School of Massage or Student Clinic, nor use the same facilities as that of a School of Massage or Student Clinic.

Q. No Massage Business shall place, publish or distribute, or cause to be placed, published or distributed, any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective Clients that any service is available other than those services listed as an available service pursuant to Section 6.24.050 C nor shall any Massage Business employ language in the text of such advertising that would reasonably suggest to a prospective Client that any service is available other than those services as described in compliance with the provisions of this Chapter.

R. For purposes of this subsection R of section 6.24.050, "genitals and private parts" includes the genitals, pubic area, buttocks and perineum of any Person. No Massage shall be given unless the Client's genitals and private parts are, at all times, fully covered. A Massage Practitioner shall not before, during or after any Massage make or cause (1) physical contact with the genitals or private parts of the Massage Practitioner or any other person regardless whether the contact is over or under the person's clothing, drape or other material or (2) the genitals or private parts of any Client, Massage Practitioner or any other Person to be exposed. A Massage Practitioner shall not permit or cause a Client to turn over before, during or after a Massage unless the Client is wearing clothing or draping that covers the Client's genitals and private parts.

S. A Massage Practitioner and a Client shall not engage in any form of sexual activity before, during or after a Massage.

T. The entry to the Reception and Waiting Area of the Massage Business shall remain unlocked during business hours unless the Massage Business Owner is a Sole Proprietor with no more than one Employee or Independent Contractor.

U. No Massage Business located in a building or structure with exterior windows shall during business hours block visibility into the interior Reception and Waiting Area through the use of curtains, closed blinds, tints, or any other material that obstructs, blurs, or unreasonably darkens the view into the Massage Business. For the purpose of this subsection U, there is an irrebuttable presumption that the visibility is impermissibly blocked if more than 10 percent of the interior Reception and Waiting Area is not visible from the exterior window.

V. All signs shall be in conformance with the current ordinances of the City of Pleasanton.

W. Minimum lighting consisting of at least one (1) artificial light of not less than 40 watts shall be provided and shall be operating in each room or enclosure where Massage is being performed, and in all areas where Clients are present.

X. Ventilation shall be provided in accordance with applicable building codes and regulations.

Y. Hot and cold running water shall be provided at all times.

Z. Adequate dressing, locker and toilet facilities shall be provided at all times for Clients.

AA. A minimum of one wash basin for Employees and Independent Contractors shall be provided at all times. The basin shall be located within or as close as practicable to the area devoted to performing Massage. Sanitary towels shall also be provided at each basin.

BB. Pads used on Massage tables shall be covered with material acceptable to the Police Chief.

CC. All Massage Businesses shall comply with all state and federal laws and regulations for Clients with physical disabilities.

DD. A Massage Practitioner shall operate only under the name specified in the Massage Practitioner's CAMTC Certificate or under the name specified in the Massage

Technician Permit. A Massage Business shall operate only under the name specified in its City Registration Certificate.

EE. No Massage Business shall be used for residential or sleeping purposes.

FF. Each Massage Business shall post the notice required to be posted under State Civil Code, section 52.6 (concerning slavery and human trafficking).

#### **6.24.055 OFFSITE MESSAGE**

A. Any Certified Massage Practitioner or Massage Technician seeking to engage in Offsite Massage shall file a written application with Police Chief on a form provided by the City.

B. A Certified Massage Practitioner or Massage Technician who has received approval to engage in Offsite Massage from the Police Chief shall comply with the following: Operating Requirements of Section 6.24.050 A, B, C, E, L, M, Q, R, S, BB, CC and DD; and the Notification requirements of Section 6.24.070.

#### **6.24.060 INSPECTION BY OFFICIALS.**

The investigating and enforcing officials of the City of Pleasanton, including but not limited to the Police Chief, Fire Chief and Director of Community Development, or their designees, shall have the right to enter any Massage Business from time to time during regular business hours of the Massage Business for the purpose of making reasonable inspections to observe and enforce compliance with building, fire, electrical, plumbing or health regulations, and to enforce compliance with applicable regulations, laws, and statutes, and with the provisions of this Chapter. The City may charge a fee for any safety inspections.

#### **6.24.070 NOTIFICATIONS.**

A. A Massage Business shall notify the Police Chief of any changes described in Section 6.24.040 pursuant to the timelines specified therein.

B. A Massage Business shall report to the Police Chief any of the following within 96 hours of the occurrence:



1. arrests of any Owners, Employee of Independent Contractors for an offense other than a misdemeanor traffic offense;
2. resignations, terminations, or transfers of Massage Practitioners employed or hired by the Massage Business;
3. any event involving the Massage Business or the Massage Practitioners employed or working for the Massage Business that constitutes a violation of this ordinance or state or federal law.

C. This provision requires reporting to the Police Chief even if the Massage Business believes that the Police Chief has or will receive the information from another source.

#### **6.24.080 EXEMPTIONS.**

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, acupuncturists, nurses or any physical therapists who are duly licensed to practice their respective professions in the State of California.

B. Barbers, cosmetologists, estheticians and beauticians who are duly licensed under the laws of the State of California while engaging in practices within the scope of their licenses, except that this provision shall apply solely to the massaging of the neck, face and/or scalp, hands or feet of the clients.

C. Hospitals, nursing homes, mental health facilities, or any other health facilities duly licensed by the State of California, and employees of these licensed institutions, while acting within the scope of their employment.

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.

F. Persons administering Massages to persons participating in a Special Events; provided, that all of the following conditions are satisfied:

1. The persons have obtained a Special Event permit;
2. The Massage services are made equally available to all participants in the Special Event;
3. The Special Event is open to participation by the general public or a significant segment of the public such as employees of sponsoring or participating corporations;
4. The Massage is provided at the site of the Special Event and either during, immediately preceding or immediately following the Special Event;
5. The sponsors of the Special Event have been advised of and have approved the provisions of Massage services;
6. The persons providing the Massage services are not the primary sponsors of the Special Event.

G. Students currently enrolled in a School of Massage located in the City of Pleasanton and participating in a Student Clinic provided that all of the following requirements are met:

1. The student has successfully completed at a School of Massage a minimum of the following curriculum, which shall be non-repetitive: (i) 20 hours of ethics; (ii) 20 hours of anatomy and physiology; (iii) 20 hours of massage modality; and (iv) 40 hours of Swedish massage or Shiatsu massage;
2. During a Student Clinic, no student shall provide Massage unless under the direct supervision of an instructor;
3. At least 30 days prior to the Student Clinic, the School of Massage has submitted to the Police Chief a schedule of the dates and times of the Student Clinics.
4. The Student Clinic must be held in a room with multiple Massage stations.
5. During the Student Clinic persons receiving Massage must be draped or fully clothed.

For purposes of paragraph 1 of this subsection G, credit from a course not requiring actual attendance in class shall not be used to satisfy the education requirements.

H. A School of Massage may charge the person receiving a Massage at a Student Clinic a fee for the Massage.

**6.24.090 REVOCATION AND SUSPENSION OF CITY REGISTRATION CERTIFICATES**

A. Reasons for revocation. The Police Chief may revoke a City Registration Certificate upon finding any of the following grounds:

1. A Massage Practitioner is providing Massage and no longer is in possession of a current and valid CAMTC Certification or a Massage Technician Permit.

2. A certificate or permit/license issued to an Owner of a Massage Business in another jurisdiction has been suspended or revoked.

3. An Owner: is required to register under the provisions of California Penal Code section 290 (sex offender registration); is convicted of California Penal Code sections 266i (pandering), 315 (keeping or residing in a house of ill-fame), 316 (keeping disorderly house), 318 (prevailing upon person to visit a place for prostitution), 647(b) (engaging in or soliciting prostitution), 653.22 (loitering with intent to commit prostitution), 653.23 (supervision of prostitute); has a business permit or license denied, revoked, restricted, or suspended by any agency, board, city, county, territory, or state; is subject to an injunction for nuisance pursuant to California Penal Code sections 11225-11235 (red light abatement); is convicted of a felony offense involving the sale of a controlled substance; is convicted of any crime involving dishonesty, fraud, deceit, violence, slavery, human trafficking, kidnapping or moral turpitude; or is convicted in any other state of an offense which, if committed in this state, would have been punishable as one or more referenced offenses in this subdivision.

4. The Police Chief determines that an application for or a renewal of a City Registration Certificate has a material misrepresentation.

5. Violations of any of the following occurred on the premises of a Massage Business or were committed by a Massage Practitioner: California

Business and Professions Code sections 4600 *et seq.*; any local, state, or federal law; or the provisions of this Chapter.

B. Reasons for Suspension. The Police Chief may suspend a City Registration Certificate upon finding any of the grounds in paragraphs 1, 2, 4 or 5 of subsection A of this section 6.24.090:

C. Procedures. The Police Chief shall cause a written notice of the suspension or revocation to be served on an Owner by certified mail or personal service. The notice shall advise the Owner of the grounds for the suspension or revocation, and the date, time and place of the hearing, which shall be conducted within 10 days of the date of the notice unless the Owner requests that the hearing be rescheduled. The Police Chief shall render a written decision within five days of the conclusion of the hearing and cause the decision to be served on the Owner by certified mail or personal service. Pending the Police Chief's decision, the privilege to provide Massage services is suspended.

D. Time Period of Suspension of the City Registration Certificate. The Police Chief may suspend a City Registration Certificate for a period between five days and the end of the Registration term.

E. Effective Date of Suspension or Revocation. A revocation or suspension of the City Registration Certificate issued pursuant to subsections A or B of this Section 6.24.090 will be effective 10 days from the date appearing in the Police Chief's decision unless the Owner files a timely appeal in accordance with subsection E of this Section 6.24.090. During that 10 day period, the privilege to provide Massage services will continue to be suspended and, if the Owner files a timely appeal, the privilege to provide Massage Services will continue to be suspended pending the decision of the City Manager.

F. Appeal.

1. An Owner may appeal the decision of the Police Chief to the City Manager.

2. An appeal must be in writing, and be personally served or received by the City Manager within the 10 days from the date appearing on the Police

Chief's decision and accompanied by a filing fee as may be established by City Council resolution.

3. The City Manager shall schedule the hearing, conduct the hearing and issue and serve on the Owner a decision in the same manner as in subsection C of this Section 6.24.090.

4. The decision of the City Manager shall be a final administrative order, with no further administrative right of appeal or reconsideration. The City Manager may sustain a suspension or revocation, overrule a suspension or revocation, reduce a revocation to a suspension and/or reduce the length of a suspension or stay the effective date of any suspension for a reasonable time following a hearing.

G. Reapplication. The City shall not accept a new application for a City Registration Certificate for one year after a City Registration Certificate has been revoked.

**6.24.095 Revocation or Suspension of a Massage Technician Permit.**

A. The Police Chief may revoke or suspend a Massage Technician Permit if any of the following are found:

1. The Massage Technician does not possess the qualifications for the Massage Technician Permit.

2. The Massage Technician has been convicted or any violation of this Chapter or of any of the criminal offenses set forth in Section 6.24.090 A. 3.

3. The Police Chief determines there was fraud, material misrepresentation, false statement or omission of a material fact in the Massage Technician's application for a Massage Technician Permit.

4. Massage services have been conducted in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.

B. Prior to the revocation or suspension of an individual's Massage Technician Permit, the Police Chief shall hold a hearing in the same manner as the procedures set forth in Section 6.24.090 C. Following such hearing, the effective dates

of the revocation or suspension of the Massage Technician Permit, if applicable, and the individual's appeal rights shall be in the same manner as in subsections E and F, respectively, of Section 6.24.090.

**6.24.100 PUBLIC NUISANCE; UNLAWFUL BUSINESS PRACTICE; REMEDIES CUMULATIVE**

A. It shall be unlawful and a public nuisance for a Massage Business to be operated, conducted, or maintained contrary to this Chapter. The City may exercise its discretion, in addition to or in lieu of prosecuting a criminal action, to commence proceedings for the abatement, removal, and enjoinder of that Business in any manner provided by law.

B. Any Massage Business operated, conducted, or maintained contrary to the provisions of this Chapter shall constitute an unlawful business practice pursuant to Business & Professions Code Section 17200 *et seq.*, and the City Attorney or District Attorney may, in the exercise of discretion, in addition to or in lieu of taking any other action permitted by this Chapter, commence an action or actions, proceeding or proceedings in the Superior Court of Alameda County, seeking an injunction prohibiting the unlawful business practice.

C. All remedies under this Chapter are cumulative.

**SECTION 4. SEVERABILITY.** If any provision(s) of this ordinance is declared invalid by a court of competent jurisdiction, it is the intent of the City Council that such invalid provision(s) be severed from the remaining provisions of the ordinance so that regulation and control of Massage may remain in place.

**SECTION 5.** This ordinance shall be effective thirty (30) days from the date of passage thereof.

\* \* \* \* \*