

Chapter 6.24**MASSAGE*****Sections:**

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* **Prior code history:** Ords. 1279, 1222, 1727; prior code §§ 4-2.1401—4-2.1432.

6.24.010 Purpose and intent.

A. In enacting these regulations the city council recognizes that massage is a viable professional field offering the public valuable health and therapeutic services, including, but not limited to, massage, bodywork, and somatic therapies.

B. 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 to provide minimum building sanitation and health standards, to ensure that persons offering massage possess the minimum qualifications necessary to operate such businesses and to perform such services offered, and to ensure that those offering massage services conduct their work in a lawful and professional manner. (Ord. 1970 § 1, 2008)

6.24.020 Definitions.

For the purpose of this chapter, the following words and phrases are defined as follows:

A. "Applicant," in the case of a massage establishment permit, means an individual, or if not an individual, the person responsible for the ownership or operation of the massage establishment, who applies to obtain a permit under this chapter. In the case of a massage technician permit, offsite massage permit, or special event permit, "applicant" means an individual who applies for a permit under this chapter.

B. "City manager" means the city manager of the city of Pleasanton or the city manager's designee.

C. "Employee" includes any person, owner, partner, operator, manager, supervisor, or worker, whether paid or not, who renders services of any nature in the operation of a massage establishment.

D. "Managing employee" means any employee of a massage establishment who has been designated by the massage establishment permittee to manage the business, or any employee of a school of massage who has been designated to manage the school of massage.

E. "Massage" means the application of touch to the human body using a variety of manipulative techniques, which may include any method of pressure on, friction against, stroking, kneading, rubbing, tapping, stretching, pounding, vibrating, or stimulating the human body with the hands or with the aid of any mechanical or electrical apparatus or organic aids, or other appliances or devices or aids standard to the massage industry, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, massage oil, essential oils, powder, cream, lotion, ointment, or other similar preparations. This may include body/mind/spirit integration, personal growth, physical or emotional relaxation and the relief of somatic pain or dysfunction. As used in this chapter, massage includes bodywork, somatic therapies, and acupressure.

F. "Massage establishment" means any establishment wherein massage is given in exchange for consideration of any type, or permitted to be given in ex-

change for consideration of any type, either as a primary or secondary function in which massage services are made available to clients. A school of massage that provides student clinics shall be considered a massage establishment.

G. "Massage technician" means any person who administers to another person massage in return for any consideration whatsoever.

H. "Offsite massage" means when massage is given, engaged in or carried on by a massage establishment or massage technician in exchange for consideration of any type, at a location, designated by the massage establishment or massage technician or client, where that location does not have a massage establishment permit.

I. "Permit" means the permit to engage in the practice or business of massage as required by this chapter.

J. "Permittee" means any person possessing a permit issued under this chapter.

K. "Person" means any individual, co-partnership, firm, association, joint stock company, corporation, joint venture, or combination of individuals of whatever form or character.

L. "Police chief" means the police chief of the city of Pleasanton or the police chief's designee.

M. "School of massage" means an "approved school" or "approved massage school" as defined in Section 4600(a) of the Business and Professions Code.

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

O. "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 in which they are enrolled. (Ord. 1993 § 1, 2009; Ord. 1970 § 1, 2008)

6.24.030 Permit requirements.

A. Massage Establishment Permit.

1. Except as otherwise provided in Section 6.24.040 of this chapter, it is unlawful for any person within the city to operate a massage establishment without holding a massage establishment permit issued by the police chief.

2. A separate permit shall be obtained for each separate massage establishment.

3. For the purposes of this chapter, it is unlawful for a school of massage to hold or conduct a student clinic without holding a massage establishment permit.

B. Massage Technician Permit. Except as otherwise provided in Section 6.24.040 of this chapter, it is

unlawful for any person within the city to act as or be a massage technician without holding a massage technician permit issued by the police chief.

C. Offsite Massage Permit. Except as otherwise provided in Section 6.24.040 of this chapter, it is unlawful for any person within the city to engage in, conduct, or carry on an offsite massage without holding an offsite massage permit issued by the police chief.

D. Special Event Permit. Except as otherwise provided in Section 6.24.040 of this chapter or unless the person holds an offsite massage permit, it is unlawful for any person within the city to provide massage at a special event without holding a special event permit issued by the police chief.

E. Additional Permits. Permits required under this chapter shall be in addition to any other license, permit, or requirement required under federal, state, or local law or regulation. A permit issued under this chapter does not authorize the permittee to practice massage until the permittee has complied with all business license requirements, zoning/planning requirements, fire requirements, building requirements, and all other applicable federal, state, and local laws and regulations. (Ord. 1970 § 1, 2008)

6.24.040 Permit exemptions.

A. The permit requirements of this chapter shall not apply to the following persons while engaged in the performance of their duties:

1. Physicians, chiropractors, nurses, physical therapists, or acupuncturists who are duly licensed to practice their respective professions in the state of California;

2. Barbers, beauticians, cosmetologists, and estheticians who are duly licensed under the laws of the state of California while engaging in practices within the scope of their licenses;

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

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

5. Trainers of amateur, semiprofessional or professional athletes or athletic teams while engaging in their training responsibilities for and with athletes; and trainers working in conjunction with a specific athletic event such as road races, track meets, triathlons, biathlons, or similar single occurrence athletic or recreational events;

6. Trainers of amateur, semiprofessional or professional performing troupes or similar groups while

engaging in their training responsibilities for and with performers in conjunction with a specific event such as performance;

7. Massage establishments or businesses, as defined in Section 4612(b)(1) of the Business and Professions Code, except as provided in Section 6.24.045;

8. Massage practitioners, as defined in Section 4600(c) of the Business and Professions Code, except as provided in Section 6.24.045;

9. Massage therapists, as defined in Section 4600(d) of the Business and Professions Code, except as provided in Section 6.24.045.

B. Special Events.

1. The massage establishment, massage therapist, and offsite permit requirements of this chapter shall not apply to a person who provides massage at a special event if the following criteria are met:

a. The special event has received prior approval by the city, including, but not limited to, the planning and police departments; and

b. The person holds a permit, license, or certificate for the practice of massage from another local, state, or federal agency; and

i. Two weeks prior to the special event, the person provides the police chief the following:

1. The permit, license, or certificate for the practice of massage from the local, state, or federal agency, or a copy thereof, and

2. The person's name, date of birth, and social security number, and business name, address, and telephone number, and

3. Two recent, identical, passport-size, color photographs of the applicant. The police chief shall have the right to take additional photographs of the applicant, and

4. An application fee pursuant to Section 6.24.090 of this chapter;

ii. As a condition of the permit, license or certificate from the local, state, or federal agency, or a copy thereof, the person was required to meet educational standards pertaining to massage and provides proof of liability insurance in the sum of not less than \$1,000,000.00.

iii. As a condition of the permit, license, or certificate from the local, state, or federal agency, the person successfully passed a criminal background check which considered the same or similar disqualifying conduct provided in Section 6.24.110(B) of this chapter, and the person's fingerprints were submitted to the California Department of Justice and Federal Bureau of Investigation.

2. A person may be issued no more than two special event permits per calendar year.

C. Student Clinic.

1. The permit requirements of this chapter shall not apply to any student who is enrolled in a course in a school of massage located in the city of Pleasanton and is engaged in a student clinic, if the following requirements are met:

a. The student has successfully completed at a school of massage a minimum of the following curriculum, which shall be non-repetitive:

i. Twenty hours of ethics; and

ii. Twenty hours of anatomy and physiology;

and

iii. Twenty hours of any massage modality; and

iv. Forty hours of Swedish massage or 40 hours of Shiatsu massage.

Credit from a course not requiring actual attendance in class may not be used to satisfy the education requirements.

b. During a student clinic no student shall provide massage unless under the direct supervision of an instructor.

c. At least one month prior to the student clinic, the school of massage has submitted to the police chief a schedule of the times and dates of the clinics.

d. The student clinic must be held in a room with multiple massage stations.

e. During the student clinic persons receiving massage must be draped or fully clothed.

2. A school of massage may charge the person receiving a massage at a student clinic a fee for the massage. (Ord. 1993 § 1, 2009; Ord. 1970 § 1, 2008)

6.24.045 Applicability of chapter to exempt massage businesses, practitioners, and therapists.

A. Every massage establishment or business, as defined in Section 4612(b)(1) of the Business and Professions Code shall:

1. Two weeks prior to providing massage, provide the police chief the following: a copy of the certificate issued pursuant to Chapter 10.5 of the Business and Professions Code; the full name under which the business will be conducted, present or proposed address where the business will be conducted, certificate holder's full name, including all other names used presently or in the past, date of birth, present residence address and telephone number, and whether the certificate holder intends to engage in offsite massage. The massage establishment or business shall notify the police

chief of any change in the information at least two weeks prior to the proposed change.

2. Display, in compliance with Section 6.24.160 of this chapter, a copy of the certificate issued pursuant to Chapter 10.5 of the Business and Professions Code for each person who is providing massage at the business.

3. Provide massage in compliance with Section 6.24.180 of this chapter.

4. Provide massage in compliance with Section 6.24.190 of this chapter.

B. Every massage practitioner, as defined in Section 4600(c) of the Business and Professions Code, and massage therapist, as defined in Section 4600(d) of the Business and Professions Code, shall:

1. Two weeks prior to providing massage, provide the police chief the following: a copy of the certificate issued pursuant to Chapter 10.5 of the Business and Professions Code; the certificate holder's full name, including all other names used presently or in the past, date of birth, present residence address and telephone number, whether the certificate holder intends to engage in offsite massage, and the full name of the business premises in which massage will be administered. The certificate holder shall notify the police chief of any change in the information at least two weeks prior to the proposed change.

2. Display, in compliance with Section 6.24.160 of this chapter, a copy of the certificate issued pursuant to Chapter 10.5 of the Business and Professions Code.

3. Provide massage in compliance with Section 6.24.190 of this chapter.

C. The city may make reasonable investigations into the information provided pursuant to subsections (A)(1) and (B)(1) of this section.

D. The city may conduct reasonable inspections, during regular business hours, to ensure compliance with Chapter 10.5 of the Business and Professions Code, this chapter, and other applicable fire and health and safety requirements. (Ord. 1993 § 2, 2009)

6.24.050 Education requirements.

A. Each permittee shall possess an original diploma, original certificate of graduation, or other written proof, including but not limited to course outlines and certified sealed transcripts, acceptable to the police chief, from a school or schools of massage, college, junior college, or university which shows satisfactory completion of at least 500 hours of a non-repetitive curriculum which shall include the following:

1. Three hundred hours of formal education and training in massage, ethics, anatomy, and physiology; and

2. Two hundred hours of related education in massage and/or professional experience in massage obtained in a jurisdiction other than the city of Pleasanton.

Credit from a course not requiring actual attendance in class may not be used to satisfy the education requirements. Students must demonstrate to the police chief that they have fulfilled the education requirements from a school of massage as defined in this chapter.

B. Each applicant for a massage establishment permit who signs a declaration under penalty of perjury that such applicant shall not personally engage in the practice of massage is exempt from the educational requirements set forth in this section. (Ord. 1970 § 1, 2008)

6.24.060 Massage establishment permit application.

A. Each applicant for a massage establishment permit shall file a written application with the police chief on a form provided by the police chief.

B. Each applicant shall submit the following information in the application under penalty of perjury:

1. The full, true name under which the business is to be conducted;

2. The present or proposed address where the business is to be conducted;

3. The applicant's full, true name, including all other names used presently or in the past, date of birth, valid California driver's license number or identification number, social security number, present residence address and telephone number, gender, height, weight, color of hair, and color of eyes;

4. The applicant's two most recent street addresses and the dates of residence at each address. Addresses from post office boxes and non-street mailboxes may not be used;

5. The name, street address, and telephone number of each business in which the applicant has been employed within the past 10 years along with the dates of employment, positions held by the applicant, and a contact person at each location. Applicant shall provide proof that within the 10 years preceding submission of the application, the owner, operator, manager, and/or responsible managing officer/employee has not:

a. Had a massage establishment, massage technician, offsite massage, special event, or other similar permit or license denied, suspended, or revoked by the city, or any other federal, state, or local agency,

b. Engaged in, conducted, 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;

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 related to massage, other than is required under this chapter, issued by any agency, board, city, county, territory, state, or other jurisdiction; the date of issuance of such permit or license; whether or not the permit or license is still in effect; if the permit or license is no longer in effect, whether or not it was revoked or suspended, and if so, the reason(s) therefor. The name and location of the jurisdiction or agency which suspended or revoked such license, certificate, permit, or other authorization shall also be included;

7. The name and street address of any other massage establishment or similar business operated or managed by the applicant during the last 10 years;

8. A statement whether the applicant intends to personally provide massage services at the business;

9. Except as provided in Section 6.24.050(B) of this chapter, an original diploma, certificate of graduation, or other written proof, including but not limited to course outlines and certified sealed transcripts, acceptable to the police chief showing that the applicant has met the requirements of Section 6.24.050(A) of this chapter;

10. Applicant's criminal convictions, whether or not the conviction has been expunged, or entered a plea of no contest, for all offenses other than traffic violations within 10 years before the date of the application;

11. Any criminal charges pending against the applicant at the time of the application, other than traffic citations, the name and location of the court in which the criminal charges are pending and the applicable case numbers;

12. The name, street address, telephone number, and date of birth of each massage technician or employee who works or shall work at the massage establishment, regardless of the nature of the employment;

13. The name, street address, and telephone number of any massage establishment or similar business owned or operated by any person whose name is required to be given pursuant to this section;

14. Documentation to prove that the applicant has a lawful right to work in the United States;

15. If the applicant is a corporation or limited liability corporation, the name shall be set forth exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation and the

name, residence address, and telephone number of each of its current officers, directors, along with the amount of stock held;

16. If the applicant is a partnership, the application shall set forth the name, residence street address, and telephone number of each of the partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership as filed with the county clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporate applicants shall apply to the corporate partner;

17. The applicant, if a corporation, limited liability corporation, or partnership, shall designate one of its officers or general partners to act as its responsible managing officer/employee. Such person shall complete

and sign all application forms required of an individual applicant under this chapter and shall, at all times, meet all of the requirements set for permittees by this chapter or the permit shall be suspended until a responsible managing officer who meets such requirements is designated. If no such person is found within 90 days after the permit's suspension, the corporation, limited liability corporation, or partnership's permit is deemed canceled. If the corporation, limited liability corporation, or partnership wishes to reapply for a permit, a new application shall be filed;

18. Three recent, identical, passport-size, color photographs of the applicant. The police chief shall have the right to take additional photographs of the applicant;

19. The fingerprints of the applicant for the purpose of establishing identification. All required fingerprinting fees shall be the responsibility of the applicant. Fingerprinting shall be taken at a place designated by the police chief;

20. The name and street address of the owner and lessor of the real property on which the massage establishment is to be conducted. In the event the applicant is not the legal owner of the property on which the massage establishment is located, the application shall be accompanied by a copy of the lease and an acknowledgment from the owner of the property that a massage establishment will be located on the property;

21. Proof of liability insurance in the sum of not less than \$1,000,000.00;

22. If the applicant is a school of massage that wishes to hold student clinics, the applicant shall provide proof that it is a school of massage;

23. Written authorization for the city, its agents, and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and into the background of the applicant and the responsible managing officer/employee of the massage establishment;

24. Such other identification and information shall be provided as required by the police chief, necessary to discover the truth of the matters specified and required in the application. (Ord. 1970 § 1, 2008)

6.24.070 Massage technician permit application.

A. Each applicant for a massage technician permit shall file a written application with the police chief on a form provided by the police chief.

B. Each applicant shall submit the following information and/or document(s) under penalty of perjury:

1. As required by Section 6.24.050(A) of this chapter, an original diploma, certificate of graduation or

other written proof, including certified sealed transcripts, acceptable to the police chief, that the applicant has met the education requirements set forth;

2. All information required by Section 6.24.060(B) of this chapter, with the following modifications:

a. To comply with Section 6.24.060(B)(5) of this chapter, each applicant is required to provide only the name, street address, and telephone number of each business in which the applicant has been employed within the past 10 years along with the dates of employment, positions held by the applicant, and a contact person at each location,

b. Information required in Sections 6.24.060(B)(12) and 6.24.060(B)(20) of this chapter need not be provided, and

c. To comply with Section 6.24.060(B)(23) of this chapter, each applicant shall provide written authorization for the city, its agents, and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and into the background of the applicant.

3. The full name, street address, and telephone number of each business premises in which the massage technician administers massage. (Ord. 1970 § 1, 2008)

6.24.080 Offsite massage permit application.

A. Each applicant for an offsite massage permit shall file a written application with the police chief on a form provided by the police chief.

B. Each applicant shall submit under penalty of perjury all information and/or document(s) required in Section 6.24.070(B) of this chapter, except information required in Sections 6.24.060(B)(2), (B)(20) and (B)(3) of this chapter need not be provided. (Ord. 1970 § 1, 2008)

6.24.090 Application, fingerprint, and photograph fees.

Each application shall be accompanied by nonrefundable application, and fingerprint fees, in amounts established by resolution of the city council. An application shall be accompanied by a nonrefundable photograph fee, in an amount established by resolution of the city council, if the police department requires that it take photographs of the applicant. The application and photograph fees shall be used to defray the costs of the investigation, report, and photographs and are not made in lieu of any other fees or taxes required under this code. The fingerprint fee shall be in the amount to defray the costs of fingerprinting and processing the fingerprints through the Department of Justice. A copy of the receipt

for the nonrefundable fees shall accompany the application. (Ord. 1970 § 1, 2008)

6.24.100 Application review.

A. Prior to applying with the police department for a permit, the applicant shall obtain zoning approval pursuant to Title 18 of this code.

B. Upon receipt of an application, the police chief shall review the application and supplementary material. If it is clear from the face of the application and supplementary material that the applicant is not qualified for the permit sought or if the required fee has not been paid, the application may be denied without further investigation. If it appears from the face of the application and supplementary material that the applicant may be eligible for the permit sought, the police chief shall verify the information submitted by the applicant and shall further investigate the qualifications of the applicant as follows:

1. The police chief shall take a full set of the applicant's fingerprints, and submit the fingerprints to the Federal Bureau of Investigation and Department of Justice for evaluation. Upon receipt of the reports from the Federal Bureau of Investigation and Department of Justice, the police chief shall review the criminal history (if any) of the applicant;

2. The police chief may conduct additional investigations in a manner authorized by law when necessary to determine if the applicant meets the qualifications for a permit; and

3. Upon receipt of an application for a massage establishment permit, the police chief shall refer the application to the city's planning, business license, fire, and building departments, which shall review the application and inspect the premises to ensure that it shall comply with applicable ordinances, including, but not limited to, building, health and fire safety ordinances. Any modifications in the proposed site that are required to meet city standards shall be completed and all fees shall be paid before the application shall be considered for approval by the police chief. (Ord. 1970 § 1, 2008)

6.24.110 Permit issuance or denial.

A. The police chief shall issue or deny the application for a permit within 60 days of a completed application. When necessary, the chief of police may extend the time in order to issue or deny the application.

B. The police chief shall deny the application for a permit if any of the following circumstances exist:

1. The application is incomplete and/or required supplementary material is not submitted within 30 days of the date the material is requested;

2. The applicant does not have sufficient proof of the required educational requirements qualifications pursuant to Section 6.24.050(A) of this chapter, unless the applicant is exempt from these requirements as provided in Section 6.24.050(B) of this chapter;

3. The operation as proposed by the applicant would not comply with all applicable local, state, and federal laws and regulations;

4. During the 10 years preceding the date of the application, the applicant has had a license, certificate, or permit related to massage revoked by the city or any public agency;

5. During 10 years preceding the date of the application, the applicant has been convicted of, or pled guilty or no contest to, an offense that requires registration under California Penal Code Section 290, or which is a violation of California Penal Code Sections 220, 243.4, 245.3, 245.5, 261, 261.5, 264.1, 266, 266a—266k, 267, 269, 311.1—311.6, 311.10, 311.11, 314—316, 318, 647(a), 647(b), or 647(d), or equivalent offenses under the laws of another jurisdiction;

6. During the 10 years preceding the date of the application, the applicant has been convicted of, or pled guilty or no contest to, an offense involving the sale of a controlled substance specified in Sections 11054 through 11058 of the California Health and Safety Code, or equivalent offenses under the laws of another jurisdiction;

7. During the 10 years preceding the date of the application, the applicant has been convicted of, or pled guilty or no contest to, any felony, or equivalent offense under the laws of another jurisdiction;

8. During the 10 years preceding the date of the application, the applicant has been convicted of, or pled guilty or no contest to, any offense involving the use of force or violence upon another person, or equivalent offenses under the laws of another jurisdiction;

9. During the 10 years preceding the date of the application, the applicant was convicted of, or pled guilty or no contest to a violation of California Penal Code Section 415 as a result of an arrest for violation of California Penal Code Section 647(b), or equivalent offense under the laws of another jurisdiction;

10. During 10 years preceding the date of the application, the applicant has been successfully prosecuted under the Red Light Abatement Act (California Penal Code section 11225 et seq.), or equivalent offense under the laws of another jurisdiction;

11. During the 10 years preceding the date of the application, the applicant has been convicted of, or pled guilty or no contest to, any other offense involving dishonesty, fraud, deceit, violence, or moral turpitude;

12. Conspiracy or attempt to commit any of the aforespecified offenses in subsection B;

13. The applicant has made a material misrepresentation in the application or supplementary material submitted with the application.

C. The police chief may deny the application for a permit if any of the following circumstances exist:

1. During the 10 years preceding the date of the application, the applicant has had a license, certificate, or permit related to massage suspended by the city or any public agency;

2. During the 10 years preceding the date of the application, the applicant has engaged in, conducted, or operated a massage establishment, or has engaged in, conducted, or operated as a massage therapist, in a manner which would be grounds for denial, suspension, or revocation of a permit under this chapter.

D. The police chief shall give written notice of the grounds for denial to the applicant personally or by first class mail, postage prepaid, at the address provided in the application. The notice shall advise the applicant of the right to appeal the decision. (Ord. 1970 § 1, 2008)

6.24.120 Appeal.

The police chief's decision to deny the application for a permit may be appealed to the city manager by the applicant through the following procedure:

A. Within 10 days after mailing or personal service of the notice of denial, the applicant shall file with the city clerk a written request for an appeal hearing, which states the specific grounds for appeal.

B. As soon as practicable after receiving the appeal, the city clerk shall set a date for the city manager to hear the appeal, which date shall be no more than 30 days from the date the appeal was filed. The city clerk shall give each appellant written notice of the time and place of the hearing at least 10 days prior to the date of the hearing, either by causing a copy of the notice to be delivered to the appellant personally or by certified mail addressed to the appellant at the address shown on the appeal. Continuances of the hearing may be granted by the city manager on request of the appellant for good cause shown, or on the city manager's own motion.

C. The hearing shall be informal. At the hearing, the city manager shall hear the appellant and any witnesses and shall determine the issue. Upon conclusion of the hearing, the city manager shall render a decision and order which shall be final. (Ord. 1970 § 1, 2008)

6.24.130 Employment of minors.

It is unlawful for the owner, proprietor, managing employee, or any other person in charge of any massage establishment to employ any person under 18 years of age. (Ord. 1970 § 1, 2008)

6.24.140 Permits nonassignable.

No permit shall be sold, transferred, or assigned by the permittee or by operation of law, to any other person. Any such sale, transfer, or assignment, or attempted sale, transfer or assignment shall constitute an immediate revocation of the permit and the permit shall thereafter be null and void. (Ord. 1970 § 1, 2008)

6.24.150 Change of name or location of building.

A. No permittee shall operate under any name or conduct any massage establishment under any designation or location not specified in the permit.

B. In the case of any proposed change of name, an application thereof shall be made to the police chief within 30 days prior to the proposed change.

C. In the case of any proposed change of location of a massage establishment, an application thereof shall be made to the police chief within 30 days prior to the change. Any proposed change of location of a massage establishment is subject to the approval of the police chief, in addition to compliance with all city ordinances and regulations.

D. In case of any change of location of the massage establishment, inspection thereof by the city's fire and building departments shall be made as required in this chapter within 30 days of receipt of the application.

E. Any application of a proposed change of name or change of location of a massage establishment shall be accompanied by a nonrefundable fee, in an amount established by resolution of the city council. (Ord. 1970 § 1, 2008)

6.24.160 Display of permit.

A. Each permittee shall be issued a photograph permit from the police department.

B. The massage establishment permit and the permit of each massage technician providing massage in the massage establishment shall be displayed in an open and conspicuous place on the massage establishment's premises.

C. Offsite Permit.

1. When providing an offsite massage, other than at a special event, each permittee shall display to each client the permittee's offsite permit.

2. When providing massage at a special event, each permittee shall display an offsite permit in an open and conspicuous place.

D. Special Event Permit. When providing a massage at a special event, each person providing massage at the special event shall display in an open and conspicuous place the person's special event permit. (Ord. 1970 § 1, 2008)

6.24.170 Responsibilities of massage establishment permittee and school of massage.

It shall be the responsibility of the massage establishment permittee and managing employee to ensure that any person subject to this chapter complies with it. (Ord. 1970 § 1, 2008)

6.24.180 Facilities and operating requirements.

Every massage establishment and every massage technician shall comply with standards established by the Alameda County Health Services for such businesses and practitioners and the following facilities and operations requirements:

A. The massage establishment's premises and facilities shall meet and be maintained in a condition to comply with all applicable code requirements of the city and Alameda County, including, but not limited to, those related to the safety of structures, adequacy of the plumbing, lighting, heating, ventilation, waterproofing of rooms in which showers, water or steam baths are used, and the health and cleanliness of the facility.

B. Massage establishments and massage technicians shall at all times have an adequate supply of clean sanitary towels, coverings, and linens. Towels, nondisposable coverings, and linens that come in contact with a client or are otherwise used or become soiled shall not be used on more than one client, unless they have first been laundered and disinfected. Disposable towels and disposable coverings shall not be used on more than one client.

C. In the massage establishment, wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bathrooms, tanning booths, whirlpool baths, and pools shall be thoroughly cleaned and disinfected as needed, and at least once each day when the premises are open, with a disinfectant. Bathtubs shall be thoroughly cleaned with a disinfectant after each use. All walls, ceilings, floors, and other physical facilities for the establishment shall be in good repair, and maintained in a clean and sanitary condition.

D. All equipment and tools used in the massage operation shall be maintained in a clean and sanitary

condition. Instruments and tools utilized in performing massage shall not be used on more than one client unless they have been sterilized or disinfected.

E. Clients of the massage establishment shall be furnished with a dressing room within the massage establishment. Dressing rooms need not be separate from the room in which the massage is being performed.

F. Toilet facilities shall be provided in convenient locations within the massage establishment's premises and shall consist of at least one unisex toilet with lavatories or wash basins provided with soap and both hot and cold running water either in the toilet room or vestibule.

G. A minimum of one wash basin for employees shall be provided at all times. The basin shall be located within or as close as practicable to the area devoted to performing of massage services. Soap and sanitary towels shall also be provided at each basin. (Ord. 1970 § 1, 2008)

6.24.190 Prohibited conduct.

A. Massage shall be provided only between the hours of 7:00 a.m. and 10:00 p.m. No massage establishment shall be open and no client shall be in the establishment between 10:00 p.m. and 7:00 a.m.

B. No massage establishment shall sell, serve, furnish, keep, consume, or possess alcoholic beverages in the massage establishment unless the massage establishment has a valid license to do so issued by the state of California Department of Alcoholic Beverage Control. No alcoholic beverages shall be sold, served, furnished, kept, consumed, or possessed in any room where massage is provided.

C. No permittee, employee of a massage establishment, or any other person shall:

1. Expose the sexual or genital part of the permittee, employee, or any other person before, during, or after a massage;

2. Touch or expose or cause to be touched, or exposed the sexual or genital part of any person before, during, or after a massage; or

3. Permit a client to touch, expose, or view the sexual or genital part of any person before, during, or after a massage.

Sexual and genital parts shall include the genitals, pubic area, anus, and perineum of any person. As used in this chapter, touching shall mean contact skin-to-skin or through a drape, cloth or other material.

D. It is unlawful for any person to engage in, conduct, or carry on an offsite massage at a massage establishment, school of massage, or permittee's residence.

E. No massage establishment shall be used for residential or sleeping purposes. (Ord. 1970 § 1, 2008)

6.24.200 Inspection.

The police department may, from time to time, make an inspection of each massage establishment for the purpose of determining compliance with this chapter. (Ord. 1970 § 1, 2008)

6.24.210 Suspension and revocation of permits.

A. The police chief may revoke or suspend any permit granted under this chapter if any of the following are found:

1. The permittee does not possess the qualifications for the permit as required by this chapter;
2. The permittee has been convicted of any violation of any provision of this chapter;
3. The permittee has engaged in, conducted, or operated a massage establishment or has engaged in, conducted, or operated as a massage therapist in a manner which violates this chapter, any conditions of the permit, or any of the laws which would have been grounds for denial of the permit;
4. There is fraud, material misrepresentation, false statement, or omission of a material fact in any application for a permit or in any supplementary material;
5. An activity authorized in the permit has 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; or
6. Upon a recommendation from the city and/or county officials which states that such business is being managed, conducted, or maintained without regard for public safety or public health.
7. For purposes of this section, permittee, in the case of a massage establishment, shall include the managing responsible officer(s) or managing employee(s).

B. Prior to the suspension or revocation of any permit issued pursuant to this chapter, a hearing shall be held by the police chief. Written notice of the grounds for the hearing, as well as its time and place, shall be sent by certified mail to the address shown on the application or by personal delivery to the permittee at least 10 days and no more than 30 days prior to the hearing. No privilege to provide massage services shall exist from when written notice is served, pending decision by the police chief. Written notice of the police chief's decision shall be mailed to the permittee within 10 days following the hearing. (Ord. 1970 § 1, 2008)

6.24.220 Appeal of revocation or suspension.

No later than 10 days after mailing or personal service of notice of revocation or suspension, the permittee may appeal to the city manager by the procedure for appeal as set forth in Section 6.24.120 of this chapter. The hearing and notice of the decision shall be given in the same manner as provided in Section 6.24.120 of this chapter. The decision of the city manager shall be final. (Ord. 1970 § 1, 2008)

6.24.230 Permit duration and renewal.

A. A permit shall be valid for two years from the date of issuance unless revoked or suspended.

B. A permittee may apply for a renewal of a permit 45 days prior to the expiration of the permit. Any permit issued under this chapter shall be returned to the police chief within two days of its expiration. No privilege to provide massage shall exist until an application for renewal has been granted.

C. Permits may be renewed every two years by filing an application for renewal under penalty of perjury updating information in the original application provided to the police chief.

D. If a permit expires and the person to whom the permit was issued wishes to provide massage services, the person shall file a new application.

E. To renew a permit under this chapter, a permittee must provide written verification that the permittee has participated successfully in continuing education programs consisting of a minimum of 24 hours of related coursework.

1. Unless otherwise approved by the police chief as provided in subsection (E)(2) of this section, a minimum of 12 hours of coursework related to massage shall consist of credit from a school of massage.

2. A maximum of 12 hours of coursework related to massage may consist of credit from an association or organization that is devoted to massage. However, if approved by the police chief, 24 hours of coursework related to massage may consist of credit from an association or organization that is devoted to massage.

3. A maximum of 12 hours of coursework related to massage may consist of a course(s) not requiring actual attendance at class.

F. To renew a permit under this chapter, a permittee shall pay the city a nonrefundable fee in an amount set forth by resolution established by the city council. A copy of the receipt for the nonrefundable fee shall accompany the application for renewal.

G. After investigating the application for renewal, the police chief shall renew the permit if the

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permittee continues to meet the requirements for the issuance of a permit, and none of the grounds for denial of a permit set forth in this chapter exist. The police chief shall renew the permit within 30 days of such request if the information upon which the original application was granted remains unchanged, all required documentation has been submitted, and no violations of this chapter have been committed. (Ord. 1970 § 1, 2008)

6.24.240 Cease of business.

If at any time during the duration of a permit issued under this chapter a permittee ceases to do business as a massage establishment and/or a massage technician, within two days the permittee shall:

- A. Return any permit issued under this chapter to the police chief; and
 - B. Notify the business license department.
- (Ord. 1970 § 1, 2008)

6.24.250 Enforcement.

A. It is the duty of the police chief to enforce rules and regulations in accordance with this chapter.

B. Pursuant to the city's prosecutorial discretion, the city may enforce violations of the provisions of this chapter as criminal, civil and/or administrative actions.

C. Any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter is unlawful and a public nuisance, and the city attorney may, in the exercise of discretion, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in any manner provided by law. (Ord. 1970 § 1, 2008)

6.24.260 Severability.

If any provision or clause of this chapter or the application thereof to any person or circumstances is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such validity shall not affect other provisions or clauses or applications thereof which can be implemented without the invalid provision or clause or application, and to this end the provisions and clauses of this chapter are declared to be severable. (Ord. 1970 § 1, 2008)