ORDINANCE NO. _____________
CITY COUNCIL, CITY OF PLEASANTON, STATE OF CALIFORNIA

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

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

SECTION 1. FINDINGS. The City Council finds and declares as follows:

(a) The City Council recognizes that massage is a viable professional field offering the public valuable health, well-being, and therapeutic services;

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

(c) The California legislature and judiciary has 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 ensure the protection of the health, safety, and welfare of citizens and minimize opportunities for illegal activities.

(d) There is a significant risk of injury to clients of massage businesses by improperly trained or poorly educated massage practitioners.
(e) Massage businesses have been found to present opportunities for prostitution, human trafficking and other unlawful activity, and, peace 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 prostitution has occurred in massage businesses.

(f) 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, become a public nuisance, and foster further illegal activities.

(g) The regulation of massage businesses, therefore, is reasonably necessary to protect and preserve the quality of City neighborhoods and commercial districts.

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 Chapter 6.24 of the City of Pleasanton Municipal Code is hereby repealed.

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

Chapter 6.24 MASSAGE

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, well-being, and therapeutic services. The City Council further recognizes that, unless properly regulated, the practice of massage therapy and the operation of massage businesses may pose a threat to the public's health, safety, and welfare, and may be associated with unlawful activity, such as human trafficking, and pose a threat to the quality of life in the community. Accordingly, it is the purpose and intent of this Chapter to protect the public's 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 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, reduce or prevent neighborhood blight and protect and preserve the quality of City neighborhoods and commercial districts, and enhance enforcement of criminal statutes relating to the unlawful conduct of operators, employees, independent contractors, and others associated with 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 California Business and Professions Code sections 4600 et seq. by Senate Bill 731, and amended in 2011 by Assembly Bill 619, in 2014 by Assembly Bill 1147, in 2016 by Assembly Bill 2194, and in 2017 by Senate Bills 314 and 315 to restrict the commercial practice of massage in the City to those persons certified to practice by the California Massage Therapy Council, and to provide for the registration and regulation of massage businesses for health and safety purposes to the extent allowed by law.

D. It is the Council’s further purpose and intent to rely upon the City’s regulations applicable to those persons who, as of the effective date of this Ordinance, hold massage technician permits issued by the City, and within two years, by when all of these massage technician permits expire, the only persons practicing massage in Pleasanton will be those certified by the California Massage Therapy Council.

6.24.020 DEFINITIONS.

For the purposes of this Chapter, the following words, terms and phrases are defined as follows:

A. “Applicant” means any person applying for registration from the City, including the following persons: the responsible managing officer; managing employee, a general partner; a limited partner; a shareholder; a sole proprietor; or any person who has five (5) percent or greater ownership interest in a massage business whether as a person, corporate entity, limited partner, shareholder or sole proprietor.
B. “California Massage Therapy Council” or “CAMTC” means the California Massage Therapy Council formed pursuant to California Business and Professions Code Chapter 10.5 (Massage Therapy Act).

C. “Certified Massage Practitioner,” means any person certified by the California Massage Therapy Council as a massage therapist under California Business and Professions Code section 4604 or as a massage practitioner under California Business and Professions Code section 4604.2.

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

E. “City Registration Permit” means the permit, as required by this Chapter, for a massage business to offer massage in exchange for compensation.

F. “Client” means the customer or patron who is going to receive or receives a massage in exchange for compensation.

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

H. “Directly Illuminated Signs” means signs designed to give artificial light directly, or through transparent or translucent material, from a source of light within the sign, including, but not limited to, neon and exposed lamp signs.

I. “Employee” means any person, owner, operator, manager, supervisor, administrator or worker who renders services of any nature in the operation of a massage business.

J. “Independent Contractor” means any person with whom a massage business has entered into a contract by which the person may render services to the massage business, and who, as a result, receives compensation.

K. “Massage” or “Massage Therapy,” means 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, stimulating, or manipulating 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; or by baths. As used in this Chapter, massage includes bodywork, somatic therapies, and acupressure.
L. “Massage Business" or “Massage Establishment" means any business that offers massage in exchange for compensation. 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 or employee of a massage business operating as a sole proprietorship, as well as a massage business which employs massage practitioners or massage technicians, or hires massage practitioners or massage technicians as independent contractors.

M. “Massage Practitioner” means a Certified Massage Practitioner or Massage Technician.

N. “Massage Technician” means any person 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.

O. “Massage Technician Permit” means the permit issued to any person by the City under Ordinance 1970 (now repealed) by which the person is permitted to offer massage in exchange for compensation.

P. “Offsite Massage” means the engaging in or carrying on of massage in exchange for compensation in a location other than the business’s address set forth in the massage business’s City Registration Permit, or the engaging in or carrying on of massage when the massage business owner does not have a fixed place of business.

Q. “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 (5) 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 (5) percent or greater ownership interest in any other type of business association that owns a massage business.

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

S. "Permit" means a City Registration Permit or Massage Technician Permit issued pursuant to this Chapter.

T. "Police Chief" means the Police Chief or the Police Chief's designee.

U. "Reception and Waiting Area" means the area 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 room otherwise used for providing massage.

V. "Sole Proprietorship" means any legal form of business organization where the business owner is the only person to operate or be employed by the massage business.

W. "Solicit" means to verbally or non-verbally request, seek, ask, demand, or otherwise arrange for services.

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

6.24.030 CAMTC CERTIFICATION, CITY REGISTRATION

A. Persons.

1. Except as provided below in Section 6.24.080 for Massage Technicians, it shall be unlawful for any person to offer, provide, operate, engage in, conduct, or carry on Massage in exchange for Compensation within the City of Pleasanton unless that person is a Certified Massage Practitioner and registered with the Police Department.

2. A Certified Massage Practitioner shall register with the Police Department by filing with the Police Department a form provided by the Police Department. The registration shall include all of the following: Certified Massage Practitioner's name, all aliases and nicknames; address; telephone number; copy of
CAMTC certificate; copy of CAMTC Identification Card; and location where the Certified Massage Practitioner proposes to provide Massage.

B. Businesses. It shall be unlawful for any Massage Business to offer, provide, operate, engage in, conduct, or carry on Massage in exchange for Compensation within the City of Pleasanton unless all persons who offer, provide, operate, engage in, conduct, or carry on Massage in exchange for Compensation are Certified Massage Practitioners or Massage Technicians, and the Massage Business holds a current and valid City Registration Permit.

6.24.040 EXEMPTIONS.

The provisions of this Chapter shall not apply to the following categories of Persons while engaged in the performance of their duties:

A. Physicians, surgeons, chiropractors, osteopaths, acupuncturists, nurses or any physical therapists duly licensed to practice their respective professions in the State of California, but only while engaged in the practice for which they are licensed.

B. Barbers, cosmetologists, estheticians, beauticians, and manicurist duly licensed under the laws of the State of California while engaged in the practice for which they are licensed, except that this provision shall apply solely to the massaging of the client’s neck, face, scalp, shoulders, hands, or feet.

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, but only while engaged in the practice for which they are licensed.

D. Accredited high schools, junior colleges, colleges, universities and their coaches and trainers while 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 participants of a Special Event, provided that all of the following conditions are satisfied:
1. The Special Event has received prior approval by the City, including, but not limited to, the Community Development and Police Departments;

2. The person is a Certified Massage Practitioner or a Massage Technician; and

3. At least two weeks prior to the Special Event, the person completes an application provided by the Police Department. The application shall include all of the following:

   a. the person’s name, date of birth, business name, business address, and telephone number;

   b. copies of the person’s current and valid CAMTC certificate and CAMTC Identification Card;

   c. copy of a current and valid driver’s license or identification issued by a state or federal governmental agency or other photographic identification bearing a bona fide seal by a foreign government;

   d. the Special Event’s name, date, time, location, and organizer’s name and telephone number; and

   e. proof that the person as liability insurance in the sum of not less than $2,000,000.00 per occurrence.

6.24.050 APPLICATION FOR CITY REGISTRATION PERMIT

A. Application. Any Person, except as herein otherwise provided, desiring to operate a Massage Business in the City of Pleasanton, shall first file with the Police Department an application for a City Registration Permit on forms provided by the Police Department. The application shall include all of the following:
1. Applicant’s legal name, including all names used in the present and past, residence and business addresses and telephone numbers, and email address. If the Applicant is a Massage Business, also include the Massage Business’s legal name, proposed business address and telephone number, and optional email address. Applicants shall include the Applicant’s residence address to allow for correspondence via United States mail;

2. copy of a current and valid driver’s license or identification issued by a state or federal governmental agency or other photographic identification bearing a bona fide seal by a foreign government;

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;

4. legal names, including all names used in the present and past, of all Massage Business Owners;

5. residence and business addresses and telephone numbers of all Massage Business Owners;

6. a list of all of the Massage Business’s Employees and Independent Contractors and copies of each of their CAMTC certifications or Massage Technician Permits;

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. the name and street address of the owners and lessors of the real property on which the Massage Establishment is proposed to be conducted. If the Applicant is not the legal owner of the real property, the application shall be accompanied by a copy of the lease and an acknowledgment from the owners of the real property that the Massage Establishment is proposed to be conducted on the property;

9. the Applicant’s criminal convictions, if any, and 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;

10. any criminal charges, other than traffic violations, pending against the Applicant at the time of the application, the name and location of the court in which the charges are pending, and the applicable case numbers;

11. 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.

12. 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, 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 therefore, and the name(s) of the governing jurisdiction;

13. each Massage Business Owner who is not a Certified Massage Practitioner or does not hold a Massage Technician Permit shall submit an application and fingerprints. In addition to the application requirements enumerated in this subsection 6.24.050(A), the application shall include the following: the Person’s business, occupation, and employment history for the 10 years preceding the date of the application; the inclusive dates of such employment history; and the name and address of any Massage Business or similar business owned or operated by the Person regardless of location. The Applicant’s fingerprints shall be
submitted to the Federal Bureau of Investigation and California Department of Justice for evaluation, all at the Applicant’s expense;

14. proof that the Massage Business has commercial general liability insurance in an amount not less than $2,000,000 per occurrence;

15. for all Massage Businesses that have or intend to have one or more Employees, evidence that the Massage Business has workers’ compensation insurance for its Employees in amounts required by State law;

16. for all Owners, a valid and current driver’s license or identification issued by a state or federal governmental agency or other photographic identification bearing a bona fide seal by a foreign government;

17. 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 and Massage Business’s Employees and Independent Contractors, and they acknowledge that failure to comply with the California Business and Professions Code sections 4600 et seq., any other applicable local, state, or federal law, or this Chapter may result in suspension or revocation of the City Registration Permit and other administrative, criminal, or civil action; and

18. 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.

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 City Registration Permit sought pursuant to this Chapter’s requirements and standards, or if the required fee has not been paid, the application shall 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 City Registration Permit, the Police Chief shall further review the information submitted by the Applicant and investigate the Applicant as follows:

1. upon receipt of the fingerprint and background check results and reports from the Federal Bureau of Investigation and California Department of Justice, the Police Chief shall review the criminal history, if any, of the Applicant;

2. the Police Chief shall review the information submitted by the Applicant; and

3. the Police Chief may conduct additional investigations in a manner authorized by law when necessary to determine if the Applicant meets the qualifications for registration pursuant to this Chapter.

6.24.060 CITY REGISTRATION APPROVAL, DENIAL, AND RE-APPLICATION

A. The Police Chief shall issue or deny an application for a City Registration Permit within sixty (60) days of a completed application. When necessary, the Police Chief may extend the time to further investigate and review any findings, and issue or deny the application.

1. Approval. When an Applicant provides complete information and documentation set forth in Section 6.24.050, the Police Chief shall review the Application. If the Police Chief verifies the accuracy of the information and documentation and determines that the Applicant meets the requirements in this Chapter, and no grounds exist to deny the City Registration Permit, the Police Chief shall issue the Applicant a City Registration Permit.

2. Denial.

a) The Police Chief shall deny a City Registration Permit if the application is incomplete or required supplementary material is not submitted within thirty (30) days of the date the material is requested.

b) The Police Chief shall deny a City Registration Permit if any of the following are present:
i. The operation as proposed would not comply with the Municipal Code or other applicable local, state, and federal laws and regulations.

ii. Another Massage Business is or was operating at the proposed location and the City Registration Permit for that Massage Business is currently suspended under Section 6.24.130, whether pending a hearing or an appeal or following such hearing or appeal;

iii. Another Massage Business was operating at the proposed location and the City Registration Permit for that Massage Business is currently revoked under Section 6.24.130, and one year has not lapsed since the revocation;

iv. Another Massage Business is or was operating at the proposed location and that Massage Business has outstanding fines or penalties as a result of violations under this Chapter.

v. 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;

vi. 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;

vii. 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;
viii. 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;

ix. 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;

x. 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;

xi. Conspiracy or attempt to commit any of the offenses enumerated in subsections 6.24.060(A)(2)(b)(vi), (vii), (viii), (ix), and (x); or

xii. The Applicant has made a material misrepresentation in the application or supplementary material submitted with the application.

c) The Police Chief shall cause the denial to be served on the Applicant personally or by deposit in the United States mail by certified mail to the address in the Application on file with the Police Department.

B. For one year following the denial of a Massage Business's application or revocation of a City Registration Permit, the Massage Business is prohibited from applying for a City Registration Permit. This subsection shall not apply to applications that have been denied because they are incomplete or required supplementary material was not submitted within thirty (30) days of the date the material is requested pursuant to subsection 6.24.060(A)(2)(a).
6.24.070 APPEAL

The Applicant may appeal the Police Chief’s decision to deny the Applicant’s application for a City Registration Permit to the City Manager through the following procedure:

A. Within ten (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 thirty (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 ten (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. The City Manager shall conduct the hearing, hear the appellant, City staff, and any witnesses, consider other evidence, and determine the issue. After the hearing, the City Manager shall render a written decision and order, and shall serve them in the same manner as in subsection 6.24.070(B). The City Manager’s decision and order shall be final.

6.24.080 DURATION AND EXPIRATION OF MASSAGE TECHNICIAN PERMITS

A. Duration. A Massage Technician shall only offer, provide, operate, engage in, conduct, or carry on Massage in exchange for Compensation within the City of Pleasanton pursuant to the Massage Technician’s Permit and until the Permit has expired or has been suspended, revoked, or otherwise restricted.

B. Expiration. No Massage Technician Permit shall be issued after the adoption of this Ordinance. No Massage Technician Permit shall be renewed or extended beyond its current expiration date.
6.24.090 CITY REGISTRATION PERMIT DURATION, RENEWAL, AMENDMENT, TRANSFER, AND FEES

A. Duration. A City Registration Permit shall be valid for two years from the date of issuance.

B. Renewal. A Massage Business shall apply to the City to renew its City Registration Permit at least thirty (30) days prior to the expiration of its City Registration Permit. If an application for renewal of a City Registration Permit and all required information is not timely filed, and the City Registration Permit expires, no right or privilege shall exist to offer, provide, operate, engage in, conduct, or carry on Massage.

C. Amendment. A Massage Business or Massage Practitioner shall apply to the Police Department to amend City Registration Permit or Massage Technician Permit within seventy-two (72) hours of any change in the registration or application information, including, but not limited to, changes to the ownership of the Massage Business, employment of Massage Practitioners working as an employee or independent contractor for the Massage Business, location of Massage Business, or the name, address or telephone number of the Massage Business, Owner or Massage Practitioner.

D. Transfer. A permit issued under this Chapter shall not be transferred, sold, or assigned. Such transfer, sale, or assignment shall be void.

E. Fees. The City Council shall establish fees for all permits, and amendments thereto, issued under this Chapter. The City Council shall establish fees for background checks, fingerprinting, and subsequent arrest notification for Owners of a Massage Business who are not Certified Massage Practitioners.

6.24.100 OPERATING REQUIREMENTS.

No Person shall engage in, conduct, carry on, or permit Massage within the City of Pleasanton unless all of the following requirements are met:
A. **Hours.** Massage shall be provided only between the hours of 7:00 a.m. and 10:00 p.m. No Massage Business shall be open and no Client shall be in the Massage Business between 10:00 p.m. and 7:00 a.m. Other than Owner, custodial personnel, or maintenance personnel, no person shall be on the premises of a Massage Business between the hours of 11:00 p.m. and 6:00 a.m.

B. **Available Services.**

1. A list of the services available and the cost of such services shall be posted in the Reception and Waiting Area in a Massage Business, and the services shall be described in readily understandable language.

2. In the case of Offsite Massage, a Massage Practitioner shall provide Clients a list of available services in advance of performing Massage.

3. No Massage Business, Owner, Employee, Independent Contractor, or Massage Practitioner shall Solicit, perform, permit, or in any 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.

4. No Massage Business, Owner, Employee, Independent Contractor, or Massage Practitioner shall request, charge, or accept compensation for any service other than those on the list of services available and posted in the Reception and Waiting Area or, in the case of an Offsite Massage, provided to the Client.

C. **Display of Permit.**

1. During a Massage Practitioner's working hours and at all times when the Massage Practitioner is inside a Massage Business or providing Offsite Massage, the Massage Practitioner shall wear his/her CAMTC certification or Massage Technician Permit such that it is prominently displayed and clearly visible. All other Employees shall wear a name badge that identifies the Employee's name and job title for the Massage Business.
2. When providing an Offsite Massage, each Massage Practitioner shall display to each Client the permittee’s Offsite Permit.

3. When providing Massage at a Special Event, each Massage Practitioner shall display the person’s CAMTC certification or Permit issued under this Chapter in an open and conspicuous place.

4. A copy of the Massage Business’s City Registration Permit and each Massage Practitioner’s CAMTC certification or Massage Technician Permit shall be displayed in an open and conspicuous place in the Reception and Waiting Area or similar open public place on the premises of the Massage Business.

5. A copy of the CAMTC certification, City Registration Permit, or of the Massage Technician Permit of each 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 certification and Massage Technician Permits of former Massage Practitioners shall be removed as soon as those Massage Practitioners are no longer employed by or offering services through the Massage Business.

D. **Record of Services.** For each Massage provided, the Massage Business that provided the Massage shall keep a complete and legible written record in English of the following information: the date and hour the service was provided; the service provided; the name of the Employee or Independent Contractor entering the information; the name of the Client; the name of the Massage Practitioner administering the Massage to the Client; the amount paid for the service, including tip, and the name of the administrator in charge of the Massage Business as described below in subsection 6.24.100(F). The 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, Massage Business Owner, or anyone else 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 required by law. The 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.

E. **Responsible Person.** The Massage Business Owner shall designate or employ a Massage Business administrator to be in charge of the Massage Business during all times the Massage Business Owner is not on site of the Massage Business. The name of the person currently in charge of the Massage Business shall appear in the record of service described in subsection 6.24.100(D). Either the Massage Business Owner or the Massage Business administrator shall be on site 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.

F. If any door to a Massage room is closed, no person other than a Client who is inside the Massage room to receive a Massage, the Massage Practitioner assigned to the Client, member of the Client’s immediate family, or guardian of the Client shall be in the Massage room.

G. Clients shall pay for the massage, including tips, if any, in the Reception and Waiting Area.

H. 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 the towels and linens 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.

I. 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 with a disinfectant at least once each day the Massage Business is open. Bathtubs shall be thoroughly cleaned with a disinfectant...
after each use. Walls, ceilings, floors, and other physical facilities for the Business shall 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 Client unless the instruments have been sterilized, using approved sterilization methods.

K. Except for a Client who is inside a massage room to receive a Massage, no one shall be on the Massage Business premises who is not fully clothed in clean, non-transparent outer garments, or displays or exposes oneself in underwear, bras, lingerie, swimwear, or similar garments. Said garments shall not expose a person’s genitals, pubic areas, buttocks, or chest, and shall not be worn in such manner as to expose the person’s genitals, pubic areas, buttocks, or chest. For the purposes of this section, an outer garment means a garment worn over other garments and does not include garments like underwear, bras, lingerie, or swimwear.

L. No underwear, bras, lingerie, swimwear, or other garments shall be hung to dry or otherwise displayed on the premises of a Massage Business.

M. 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.

N. No alcoholic beverages shall be on the premises of the Massage Business.

O. No Massage Business shall place, publish, or distribute, or cause to be placed, published, or distributed, any advertising 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 subsection 6.24.100(B). No Massage Business shall use text, graphics, or pictorial depiction, or other advertising or communication that would reasonably suggest to a prospective Client that a service is available that is in violation with this Chapter.

P. No Massage shall be given unless the Client’s genitals and private parts are, at all times, fully covered. No Massage Practitioner shall 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. For purposes of this section, "genitals and private parts" includes the genitals, pubic area, buttocks, and perineum of any person, and the breasts of any woman.

Q. Before, during, or after a Massage, no person shall:
   1. make or cause physical contact with the genitals or private parts of the Client, Massage Practitioner, or any other person, regardless whether the contact is over or under the person's clothing, drape, or other material; or
   2. make or cause the exposure of the genitals or private parts of any Client, Massage Practitioner, or any other person.

R. Before, during, or after a Massage, no person shall engage in any form of sexual activity.

S. The front door of the Massage Business shall remain unlocked during business hours unless the Massage Business Owner is a Sole Proprietor and providing a Client a Massage, or the Massage Business Owner is the only person in the Massage Business.

T. 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 hides, obstructs, blurs, or unreasonably darkens the view into the Massage Business. For the purpose of this subsection, there is an irrebuttable presumption that visibility is impermissibly blocked if more than 10 percent of the interior Reception and Waiting Area is not visible from the exterior window.

U. It shall be unlawful to display Directly Illuminated Signs that are within the Massage Business and visible from the exterior of the Massage Business. All signs shall be in conformance with the current ordinances of the City of Pleasanton and state and federal law.

V. Minimum lighting, consisting of at least one (1) artificial light of not less than 40 (forty) watts, shall be provided in each room where Massage is performed, the Reception and Waiting Area, and in all areas where Clients are present.

W. Ventilation shall be provided in accordance with applicable building codes and regulations.
X. Hot and cold running water shall be provided at all times.
Y. Adequate dressing, locker, and toilet facilities shall be provided at all times for Clients.
Z. 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 be provided at each basin.
AA. A Massage Practitioner shall operate only under the name specified in the Massage Practitioner’s CAMTC Permit or Massage Technician Permit.
BB. A Massage Business shall operate only under the name specified in its City Registration Permit.
CC. No Massage Business shall be used for residential or sleeping purposes.
DD. Each Massage Business shall post the notice required to be posted under California Civil Code section 52.6 (concerning slavery and human trafficking).

6.24.110 OFFSITE MASSAGE
A. Any Certified Massage Practitioner or Massage Technician seeking to offer, engage in, conduct, or carry on Offsite Massage shall file a written application with Police Chief on a form provided by the Police Department.
B. It shall be unlawful for any Person to offer, engage in, conduct, or carry on Offsite Massage in a Massage Establishment, school of massage, residence, motor vehicle, trailer, in any manner as mobile Massage, or in any location not approved by the Police Chief or not in compliance with the Pleasanton Municipal Code.

6.24.120 NOTIFICATIONS.
A. A Massage Business shall notify the Police Chief of any renewal or amendments described in subsections 6.24.090(B) and (C) pursuant to the timelines therein.
B. A Massage Business and Massage Practitioner shall notify the Police Chief of any of the following within seventy-two (72) hours of the occurrence:
1. cessation of business as a Massage Business or Massage Practitioner practicing in the City of Pleasanton;
2. arrest of any Massage Business Owner, Massage Practitioner, Employee, or Independent Contractor for an offense other than a misdemeanor traffic offense;
3. resignation, termination, or transfer of any Massage Practitioner employed or hired by the Massage Business;
4. any matter or event involving the Massage Business or Massage Practitioner, employed or working for the Massage Business that constitutes a violation of this Chapter, state or federal law, or a violation of any law which would be grounds for denial, suspension, or revocation of a City Registration Permit or Massage Technician Permit; or
5. the denial, suspension, or revocation of a Massage Business’s Employee’s or Independent Contractor’s certificate issued by the California Massage Therapy Council.

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

6.24.130 REVOCATION AND SUSPENSION OF CITY REGISTRATION PERMIT

A. Reasons for Revocation or Suspension. 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 in a manner which violates any provision of this Chapter, any conditions of a permit issued under this Chapter, or any 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, amendment, or renewal of a permit related to this Chapter;

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;

6. A certificate, permit, or license issued to a Massage Practitioner or Owner of a Massage Business in another jurisdiction has been denied, suspended, or revoked.

7. A Certified Massage Practitioner is no longer certified by the California Massage Therapy Council.

8. Any violation of this Chapter, any local, state, or federal law has been committed at a Massage Business or by the holder of the City Registration Permit, a Massage Business Owner, Massage Technician, Employee, or Independent Contractor.

9. Upon a recommendation from the California State, Alameda County, or City officials which states that such business is being managed, conducted, or maintained without regard for public safety or public health.

10. For purposes of this section, a permittee, in the case of a Massage Establishment, shall include the managing responsible officer(s) or managing employee(s).

B. **Notice of Revocation or Suspension.** Whenever the Police Chief has probable cause to believe that grounds for the suspension or revocation of a Permit exists, the Police Chief shall give the permittee written notice of the alleged grounds for the proposed suspension or revocation of the Permit and notify the permittee of the right to request a hearing before the City Manager on whether the Permit should be suspended or revoked, as provided in the notice. The notice shall be served on the permittee personally or by deposit in the United States mail by certified mail to the most recent business address on file with the Police Department. The notice shall state that if a written request for a hearing is not received by the City Clerk within ten (10) days of
the personal service of the notice on the permittee or within ten (10) days of mailing of the notice to the permittee, the suspension or revocation provided in the notice shall be final, and the permittee shall be deemed to have waived the right to a hearing.

C. Effective Date, Privilege to Provide Massage. Unless a hearing is requested, the revocation or suspension of the Permit shall be effective on the date the notice was served. If the permittee requests a hearing, no privilege to provide Massage shall exist from the date the notice was served, pending the decision by the City Manager.

D. Hearing. If a permittee requests a hearing, the hearing shall be conducted within ten (10) days of the date the notice was received by the City Clerk, unless the permittee requests that the hearing be rescheduled. Notice shall be given and the hearing shall be conducted in the same manner as provided in Section 6.24.070 of this Chapter. The City Manager shall render a written decision within five (5) days of the conclusion of the hearing and cause the decision to be served on the permittee personally or by deposit in the United States mail by certified mail to the most recent business address on file with the Police Department. The decision of the City Manager shall be final.

6.24.140 Permit Return. With seventy-two (72) hours of ceasing to do business as a Massage Business or Massage Practitioner, or the expiration, suspension, or revocation of any Permit issued pursuant to this Chapter, the corresponding Permit shall be returned to the Police Chief.

6.24.150 Investigation and Enforcement
A. The Police Chief shall have the power and authority to inspect and investigate to determine compliance with this Chapter and promulgate and enforce rules, regulations, and requirements in accordance with this Chapter.
B. Pursuant to the City's prosecutorial discretion, the City may enforce violations of this Chapter as criminal, civil, or administrative actions.
C. 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 or administrative action or
proceeding, commence proceedings for the abatement, removal, and enjoinement of the Massage Business in any manner provided by law.

**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.