ORDINANCE NO. 2015-
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOMITA,
AMENDING IN ITS ENTIRETY CHAPTER 8 OF TITLE VI OF THE LOMITA
MUNICIPAL CODE RELATED TO MASSAGE BUSINESSES

THE CITY COUNCIL OF THE CITY OF LOMITA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Subsection 6-3.06(M)(1) of Chapter 3 of Title VI of the Lomita Municipal Code is amended to read as follows:

"Massage Businesses (Registration Certificate required under Chapter 8 of Lomita Municipal Code Title VI)."

Section 2. Chapter 8 of Title VI of the Lomita Municipal Code is amended in its entirety to read as follows:

TITLE VI
Chapter 8
MASSAGE BUSINESSES AND PRACTITIONERS

Sections:

6-8.01 Applicability of chapter.
6-8.02 Definitions.
6-8.03 Exceptions.
6-8.04 Requirements for individuals Practicing Massage.
6-8.05 Requirements for Massage Businesses.
6-8.06 Violations.
6-8.07 City Registration Certificate suspension or revocation.
6-8.08 Hearing on revocation or suspension of City Registration Certificate.
6-8.09 Conditions of Approval.
6-8.10 Hearing Fees.
6-8.11 Reapplication after denial, revocation or suspension.
6-8.12 No refund of fee.
6-8.13 Inspection by officials.
6-8.14 Notifications.
6-8.15 Unlawful business practices may be enjoined; remedies cumulative.
6-8.16 Public nuisance.
6-8.17 Business location change.
6-8.18 Sale or transfer of Massage Business Interest.
Sec. 6-8.01. - Applicability of chapter.

Except as otherwise provided, all of the provisions of this chapter shall be applicable to all Massage Businesses and all Massage Practitioners operating within the City of Lomita. This chapter shall not be construed in a manner that is inconsistent with any state law governing the practice of Massage.

Sec. 6-8.02. - Definitions.

As used in this chapter:

Ancillary Massage Services means those services where less than twenty percent (20%) of the gross floor area of the business is devoted to Massage.

California Massage Therapy Council or CAMTC means the Massage Therapy organization formed pursuant to Business and Professions Code Sections 4600, et seq.

Certified Massage Practitioner means any individual certified by the California Massage Therapy Council (CAMTC) as a certified massage therapist, certified massage practitioner, or conditionally certified massage practitioner pursuant to California Business and Professions Code Sections 4600 et seq.

City means the City of Lomita, California.

City Manager means the City Manager of the City of Lomita or designee.

City Registration Certificate or Registration Certificate or Registration means a certificate issued by the City to a Massage Business to practice Massage for Compensation pursuant to this Title and this chapter.

Client means the customer or patron who pays for or receives Massage services.

Community Development Director or Director means the Community Development Director of the City of Lomita or designee.

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

Day means calendar day, unless otherwise specifically expressed.

Disqualifying Conduct means any of the following:

(a) Within five (5) years immediately preceding the date the City Registration application was filed, or any time thereafter, the person has been convicted in a court of competent jurisdiction of the commission of or any attempt to commit, directly or indirectly, or assisting in or abetting the commission of, or conspiring to commit:

(1) A violation of any provision of law pursuant to which a person is required to register under the provisions of California Penal Code section 290;

(2) Any violation of California Penal Code sections 266, 266a, 266e, 266f, 266g, 266h, 266i, 266j, 314, 315, 316, 318, 653.22, 653.23 or subsections (a), (b) or (d) of section 647;

(3) Any other crime involving dishonesty, fraud, deceit, or moral turpitude;

(4) A violation of California Penal Code section 415, 602, or any lesser included or related offense, in satisfaction of, or as a substitute for, any of the crimes previously listed in sections (1) through (3) above;

(5) Any crime committed while engaged in the management or ownership of a Massage Business or the practice of Massage;

(6) A violation of California Health and Safety Code sections 11054, 11055, 11056, 11057, or 11058; or
(7) Any offense in another state or territory of the United States which is the equivalent of any of the above offenses.

(b) Within five (5) years of the date immediately preceding the date the application was filed, or any time thereafter, any applicant whose City Registration Certificate, CAMTC Certification, or trainee registration certificate or permit, which was issued by the state of California or any county or city has been suspended or revoked for good cause;

(c) Committing or maintaining a nuisance pursuant to California Penal Code sections 11225 through 11235, and/or Health and Safety Code sections 11570, et seq., for which a permanent injunction was issued, or committing a violation of any similar provisions of law in another state or territory of the United States; or

(d) Committing a violation of any provision of this chapter provided that the applicant received timely notice of the violation.

Employee means any person hired by a Massage Business or Owner who renders any service for the Business/Owner in exchange for any form of Compensation from the Business.

Hearing Officer means the administrative hearing officer appointed by the City Manager to conduct an administrative hearing pursuant to this chapter.

Manager means the person(s) designated by the Massage Business Owner to act as the representative and agent of the Owner in managing day-to-day operations with corresponding responsibilities. The term "Manager" may also include an Owner.

Massage or Massage Therapy means the skillful application of touch, including but not limited to, pressure, stroking, kneading, compression on or movement of the external surfaces of the body to produce increased awareness, relaxation, pain relief, injury rehabilitation, or neuromuscular re-education. Examples of Massage include but are not limited to Swedish massage, sports massage, shiatsu, polarity therapy, rolling, Heller work and reflexology.

Massage business or Business means any business that offers Massage Therapy 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 who is the sole Owner, operator and Employee of a Massage Business operating as a Sole Proprietorship. For purposes of this chapter, "Massage Business" shall include, without limitation, the advertising and soliciting of Massages, and includes, but is not limited to, a Certified Massage Practitioner who is the sole Owner, operator and Employee of a Massage Business operating as a Sole Proprietorship, as well as a Massage Business which employs Massage Practitioners.

Massage Business Owner or Owner means any of the following persons:

(a) Any person who is a general partner of a general or limited partnership that owns a Massage Business.

(b) Any person who has a five (5) percent or greater ownership interest in a corporation that owns a Massage Business.

(c) Any person who is a member of a limited liability company that owns a Massage Business.

(d) Any person who has a five (5) percent or greater ownership interest in any other type of business association that owns a Massage Business.

Massage Practitioner or Practitioner means any person who administers massage to another person, for any form of consideration (whether for the massage, as part of other services or a product, or otherwise).
Reception Area means an area immediately inside the front door of the Massage Business dedicated to the reception and waiting of Clients of the Massage Business and Visitors, and which is not a Massage Therapy room or otherwise used for the provision of Massage Therapy services.

Registration Certificate Holder means the applicant named on the application for a Registration Certificate and all Massage Business Owners.

Rent-Space Massage Therapist or Rent-Space Therapist means a person who practices Massage at a Massage Business but is not an Employee of the Business.

Sole Proprietorship means and includes any legal form of business organization where the business owner (sometimes referred to as the "Sole Proprietor") is the only person employed by that business to provide Massage services.

Visitor means any person who enters a Massage Business and who is neither a Client, Owner, Manager, nor Employee of the Business.

Sec. 6-8.03. - Exemptions.

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

(a) Complete exemption. The requirements of this chapter shall not apply to the following Individuals:

(1) Physicians, surgeons, chiropractors, osteopaths, nurses or any physical therapists who are duly licensed to practice their respective professions in the State of California and persons working directly under the supervision of or at the direction of the licensed persons, working at the same location as the licensed person, and administering Massage services subject to review or oversight by the licensed person.

(2) Barbers and beauticians who are duly licensed under the laws of the State of California while engaging in practices within the scope of their licenses, except that this exemption shall only apply if the massaging of the neck, face and/or scalp, hands or feet of the clients is ancillary to the primary service being provided by the barber or beautician.

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

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

(5) Any other Business or profession exempt from the provisions of this chapter by state law.

(b) Limited exemption. In addition to any other applicable provisions of this chapter, Businesses that offer ancillary Massage services shall only be required to comply with the provisions set forth in this section for the Massage portion of the Business. The Business shall comply with the following provisions:

(1) Massage services must be performed by a Certified Massage Practitioner;

(2) Section 6-8.05(f) related to facility requirements as they pertain to the portion of Business that is utilized for Massage;

(3) Section 6-8.05(g) related to operational requirements; and

(4) Section 6-8.13 related to inspections.
(c) Any person claiming exception under this section shall furnish satisfactory evidence to the City Manager upon request that he or she is entitled to the exemption, including, proof of bona fide employment or, if applicable, a citation to the particular provision of state law upon which that person relies.

Sec. 6-8.04. - Requirements for Individuals Practicing Massage.

It shall be unlawful for any individual to practice Massage Therapy for Compensation as a Sole Practitioner or Employee of a Massage Business or in any capacity within the City unless that individual is a Certified Massage Practitioner.

Sec. 6-8.05. - Requirements for Massage Businesses.

(a) It shall be unlawful for any Massage Business to provide Massage services unless all of the following requirements are met:

(1) All of the individuals employed by the Massage Business to perform Massage are Certified Massage Practitioners;

(2) The Business has a valid City Business License under this Title; and

(3) The Business has a valid City Registration Certificate under this chapter.

(b) Application for City Registration Certificate. The application for new and renewal City Registration Certificates shall include the following information, without limitation, and an application fee in an amount established by City Council resolution:

(1) The legal name, address and telephone number of the Massage Business.

(2) A floor plan indicating how the use is proposed to be conducted within the premises, a list of services to be provided, and a description of any other business operated on the same premises.

(3) Legal names of all owners of the Massage Business and the names of all managers.

(4) Home address and telephone number and business address and telephone number of all owners of the Massage Business, and any previous home addresses for a period of five (5) years immediately prior to the date of the application and the dates of residence at each.

(5) For all Owners, a valid and current driver's license and/or photo identification issued by a state or federal governmental agency, or other photographic identification bearing a bona fide seal by a foreign government.

(6) The form of business under which the Massage Business will be operating (i.e. corporation, general or limited partnership, limited liability company, or other form).

(7) 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 Business's employees or independent contractors providing Massage services; and acknowledging that failure to comply with the California Business and Professions Code Section 4600 et seq., any local, state, or federal law, or the provisions of this chapter may result in revocation of the Business's City Registration Certificate.

(8) The Massage license and registration history of all of the Owners, including whether the Owner has operated any Massage Business or similar business or occupation within any other county, city, or state; and whether or not the
applicant, in previously operating a Massage Business, has had the License or Registration Certificate revoked, suspended, or denied. In the case of revocation, suspension, or denial, the Owner shall also include within the form the reason(s) therefor, and any employment obtained subsequent to any revocation, suspension or denial.

The employment history of each Owner for five (5) years preceding the date of the application, the inclusive dates of the employment history, and the name and address of any Massage Business or similar business owned by the individual, whether inside or outside the City. Employment history shall also include whether the Owner, including a corporation or partnership, or a former employer of the applicant while so employed, was ever subjected to an abatement proceeding under California Penal Code sections 11225 through 11235, or any similar provisions of law in a jurisdiction outside the state.

For each Owner of the Massage Business that is a Certified Massage Practitioner, a copy of that person’s current certification from the California Massage Therapy Council as a Certified Massage Practitioner, certified Massage therapist, or conditionally Certified Massage Practitioner, and copy of that person’s CAMTC-issued identification card.

For each Owner that is not CAMTC certified, current fingerprints taken by the Los Angeles County Sheriff’s Department or a certified and approved California Live Scan Fingerprinting Center for the purpose of conducting a background check on behalf of the City, to determine the criminal history of the applicant, including whether the applicant has been convicted of any felony, misdemeanor, infraction, or municipal code violation, or has been held liable for any administrative or civil action, for an act that is substantially related to the practice of Massage or Disqualifying Conduct.

The name of each person the Massage Business employs or retains to perform Massage Therapy for Compensation. For each person the Massage Business does or will employ or retain to perform Massage Therapy for Compensation, a copy of that person’s current certification from the California Massage Therapy Council as a Certified Massage Practitioner, certified Massage Therapist, or conditionally Certified Massage Practitioner and a copy of that person’s CAMTC-issued identification card for each Certified Massage Practitioner.

The name and address of the Owner of the real property upon, in, or from which the Massage Business is to be operated. In the event the applicant or Owner is not the legal Owner of the property, the application shall be accompanied by a copy of any written lease between the Massage Business and the property Owner authorizing use of the premises for a Massage Business, or, alternatively, if there is no written lease, then a written, notarized acknowledgement from the property Owner that the property Owner has been advised that a Massage Business will be operated by the applicant upon, in, or from the property Owner’s property.

Proof of current and valid Workers’ Compensation insurance from an insurer authorized to do business in California, in an amount as required by law.

Authorization for the City, its Employees and agents to seek Information and conduct an Investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the Registration Certificate.

The name of the individual to receive notices on behalf of the Business.
Any other identification and information necessary to discover the truth of
the matters required to be set in the application

Any changes to the application information during the period the City is reviewing the
application shall be immediately reported to the City. Failure to report these changes
shall result in denial of application.

Approval or denial of City Registration Certificate and Massage Business
Registration Certificate renewals.

Within thirty (30) Days following receipt of a completed application, the
Community Development Director shall either issue the Registration Certificate
or mail a written statement of the reasons for denial as set forth below. The
Director shall deny a Registration Certificate to the applicant where any of the
following conditions exist:

a. The applicant or any Owner has procured or attempted to procure a
   Registration Certificate or other license by fraud, misrepresentation or
   material misstatement;

b. The applicant or any Owner is a person who, as established by clear and
   convincing evidence, has engaged in Disqualifying Conduct as defined in
   this chapter within five years immediately preceding the date of filing
   of the application;

c. The Massage Business, as proposed by the applicant, if permitted,
   would not comply or has not complied with all the applicable laws,
   including, but not limited to, all the City’s building, fire, zoning, and
   health regulations;

d. The applicant or any Owner has violated any provision of this chapter,
   or any similar ordinance, law, rule, or regulation of any other public
   agency which regulates the operation of Massage Businesses;

e. The applicant is less than eighteen (18) years of age;

f. The application is incomplete and the required supplementary
documents were not submitted within 20 days of a request for these
documents by the Community Development Director;

g. The applicant or any Owner has been denied for good cause a Business
   Registration Certificate or license; has had their Registration Certificate
   or registration revoked, suspended, or restricted for good cause; has
   been proven to have violated any ordinance related to the practice of
   Massage; or has had any other disciplinary action taken for good cause
   against them by another city, state, county or territory of the United
   States, or by any other government agency; or

h. The applicant or any Owner is indebted to the City for any unpaid fee or
   fine.

If prosecution is pending against the applicant or any Owner for either conduct
violating this chapter’s provisions or conduct violating Business & Professions
Code Section 4600 et seq., the Director may postpone the
decision on the application until the prosecution’s final resolution. As used in
this subsection, prosecution means charges filed by the district attorney,
administrative proceedings brought by a local government or agency, or a civil
or criminal action maintained by the Lomita City Attorney or prosecution attorney.

(e) Decision and Appealing the denial of City Registration Certificate and City Registration Certificate renewals.

(1) Upon determining that grounds for denial exist, the Community Development Director shall furnish written notice of the denial to the applicant. The notice shall summarize the principal reasons for the denial, shall state that the applicant may request an appeal hearing within fifteen (15) Days of the postmarked date on the notice, and shall be delivered by mail to the applicant as that name and address appear on the application. Within fifteen (15) Days after the mailing of the notice, the applicant may file a request for an appeal hearing with the City Clerk. An application for an appeal must include a general statement specifying the basis for the appeal and the specific aspect of the decision being appealed. An appeal must be accompanied by supporting evidence substantiating the basis for the appeal. The scope of the appeal hearing pursuant to this section shall be limited to those issues raised by the appellant in the written appeal statement.

(2) Upon receipt of a timely filed appeal and payment of the appropriate fee, the City Clerk shall set the matter for hearing before the Hearing Officer. The hearing shall be held not fewer than ten (10) Days nor more than thirty (30) Days from the date of the appeal request. The hearing may be continued upon the mutual consent of the parties.

(3) The appellant shall be provided with notice of the time and place of the appeal hearing, as well as a copy of all relevant materials at least seven (7) Days prior to the hearing.

(4) At the time of the hearing, the Hearing Officer shall review the records and files relating to the decision.

(5) The Hearing Officer shall permit any interested person to present any relevant evidence bearing on the issues involved in the matter.

(6) In conducting the hearing, technical rules relating to evidence and witnesses shall not apply. Any relevant evidence may be admitted if it is material and if it is evidence customarily relied upon by responsible persons in the conduct of their affairs regardless of the existence of any common law or statutory rule which might make admission of the evidence improper over objection in civil actions. Hearsay evidence may be admissible if it is the sort upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The rules of privilege shall be applicable to the extent they are permitted in civil actions.

(7) The appellant shall have the burden of proving that he or she meets the requirements for issuing the certificate in the first instance; the City shall have the burden in proving that grounds exist for revoking, suspending, conditioning or failing to renew a Registration.

(8) Based upon the evidence presented at the hearing, the Hearing Officer shall determine whether the Director’s decision should be affirmed, modified or reversed. The Hearing Officer’s decision is final.

(9) The Hearing Officer’s decision shall be communicated in writing to the appellant within seven (7) Days after the close of the hearing and submission of the matter to the Hearing Officer for decision.
(10) The decision of the Hearing Officer shall include notice that the decision is final and is subject to judicial review pursuant to California Civil Procedure Code section 1094.5, and that any action filed in the superior court shall be filed within the time period provided by law.

(f) Facilities prerequisite to Registration Certificate issuance. A Registration Certificate shall not be issued pursuant to this Chapter unless an inspection reveals that the Business complies with each of the following minimum requirements of this chapter and Title XI of this Code:

(1) Facility Requirements.

a. No Massage or Massage services shall be given in a Business, or premises registered pursuant to this Chapter, in any room or space enclosed or divided by walls and fitted with a door capable of being locked from the Inside. This section shall not apply to the Business’s external doors and shall not operate to prohibit a Massage Business from locking its external doors if the Business is a Business entity owned by one individual with one or no Employees or independent contractors.

b. A list of services available and the cost of the services shall be posted in an open and conspicuous public place on the premises. The services shall be described in English and any other languages that the Business chooses. Only services on the posted list shall be performed.

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

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

e. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities, shall be in good repair and maintained in a clean and sanitary condition.

f. Adequate bathing, dressing, locker and toilet facilities shall be provided for Clients. A minimum of one (1) tub or shower; one (1) dressing room containing a separate locker for each Client to be served, which locker shall be capable of being locked; as well as a minimum of one (1) toilet and washbasin, shall be provided in every Massage Business; provided, however, that if male and female Clients are to be served simultaneously at the Business, separate bathing, Massage room(s), dressing room(s), and toilet facilities shall be provided for male and female Clients. This requirement may be modified upon approval of the City Manager if the services provided or site plan do not necessitate some or all of these facilities.

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 Massage services. Sanitary towels shall also
be provided at each basin. Hot and cold running water shall be provided at all times.

h. In the Reception Area, in letters that are a minimum of one (1) inch in height, a notice in English (and any other language that the Business chooses) that provides substantially as follows:

THIS MASSAGE BUSINESS AND THE MASSAGE ROOMS DO NOT PROVIDE COMPLETE PRIVACY AND ARE SUBJECT TO INSPECTION BY CITY AND HEALTH OFFICIALS WITHOUT PRIOR NOTICE

i. No room or space enclosed or divided by walls and fitted with a door where Massage or Massage services are performed shall be equipped with any electronic, mechanical, or artificial device used or capable of being used, for the recording or videotaping of visual images and/or sound.

j. 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 or required.

k. Standard or portable Massage tables shall be used with a durable, washable plastic or other waterproof material as a covering. The tables shall be sanitized after each use.

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

m. No Massage Business located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area shall block visibility into the Interior Reception and waiting area through the use of curtains, closed blinds, tints, or any other material that obstructs, blurs, or unreasonably darkens the view into the premises.

(g) Operating Requirements.

(1) Massage may be provided only between the hours of 7:00 a.m. and 9:00 p.m. No Massage Business shall be open and no Massage services shall be provided between 9:00 p.m. and 7:00 a.m. A Massage commenced prior to 9:00 p.m. shall nevertheless terminate at 9:00 p.m., and all Clients shall exit the premises at that time. It is the obligation of the Massage Business to Inform Clients of the requirement that services must cease at 9:00 p.m.

(2) The Owner and Manager of a Massage Business shall be responsible for displaying the City Registration Certificate and the CAMTC Registration Certificate of each and every Certified Massage Practitioner employed in the Business in an open and conspicuous place on the premises. Passport-size photographs of the Registration Certificate holder shall be affixed to the respective Registration Certificate on display pursuant to this section.

(3) For each Massage service provided, every Massage Business shall keep a complete and legible written record of the following Information:

a. The date and hour that service was provided;

b. The service received;

c. The name or Initials of the Employee entering the information; and
d. The name of the Employee administering the service.

The records shall be open to inspection and copying by the Los Angeles County Sheriff's Department, or other City officials charged with enforcement of this chapter. These records may not be used by any Massage Business Owner or Employee for any purpose other than as records of service provided and may not be provided to other parties by any person unless otherwise required by law. The records shall be retained on the premises of the Massage Business for a period of two (2) years.

(4) All Massage Business Owners and their Employees shall wear clean outer garments. The garments shall not include any of the following:

a. Attire that is transparent or see-through, or substantially exposes the Employee's undergarments;

b. Swim attire, if not providing a water-based Massage modality accepted by the California Massage Therapy Council;

c. Attire that exposes the Employee's genitals, pubic areas, buttocks, or breasts;

d. Attire worn in a manner that constitutes a violation of California Penal Code section 314;

e. Attire worn in a manner that is otherwise deemed by the California Massage Therapy Council to constitute unprofessional attire based on the custom and practice of the profession in California.

(5) At all times during the Massage, the Client's genitals shall be fully covered and contact shall not be made with the genitals.

(6) The premises' exterior doors and the doors separating the waiting or Reception Area from the remainder of the premises shall remain unlocked during the business hours (including electronic locking devices) or when Clients are present. External doors may only be locked during business hours if the Massage Business is a business entity owned by one Individual with one or no Employees or independent contractors who are not Employees of the Business and there is no staff available to assure security for Clients and Massage staff behind closed doors.

(7) During hours of operation, no person other than the listed Manager on duty, an Employee, or a Client shall be allowed beyond the Reception Area of the Massage Business.

(8) Clients and Visitors shall only be permitted in the Massage Business during the hours of operation.

(9) Visitors shall only be permitted in the Reception Area of the Massage Business.

(10) Clients shall only be permitted in Massage treatment areas if at least one Massage Practitioner is on the premises.

(11) The Massage Business shall be supervised, during all hours of operation, by a Manager specified in the City's Registration application. The Manager shall wear a badge with the Manager's name and it should clearly state the word "Manager" on the badge. The name of the Manager on duty shall be posted in a conspicuous place within the Reception Area daily.

(12) The Owner and Manager shall maintain a register of all Employees or Rent-Space Massage Therapists. The Employee register shall be maintained on the
premises for a minimum period of two (2) years following an Employee’s termination. The Owner and Manager shall make the Employee register immediately available for inspection upon demand by a representative of the Los Angeles County Sheriff’s Department or the City at all reasonable times. The Employee register shall include, but not be limited to the following information:

a. The name, nicknames and/or aliases used by an Employee or Rent-Space Massage Therapist.

b. A good quality color photocopy of a lawfully issued CAMTC certificate for each Employee and Rent-Space Therapist that provides Massage services.

c. The Employee’s or Rent-Space Therapist’s home address and relevant phone numbers (including but not limited to home and cellular numbers).

d. The Employee or Rent-Space Therapist’s age, date of birth, gender, height, weight, color of hair and eyes.

e. The date of employment and termination, if applicable, or, in the case of a Rent-Space Therapist, the start and end dates of the lease agreement, as well as a copy of the agreement for all Employees.

f. The duties of each Employee.

(13) While the City Registration is in effect and at all times during operation, the Massage Business shall fully maintain current and valid Workers’ Compensation insurance as required by law. Proof of insurance shall be maintained on the premises at all times.

(14) The Massage Business shall apply to the City for an amended City Registration Certificate within twenty (20) Days after the occurrence of any circumstance which changes the registration Information initially provided to the City pursuant to section 6-8.05, including, but not limited to the termination of Certified Massage Practitioners. There shall be no charge for an amended Registration Certificate unless the Director determines that the changes are substantial and a new Certificate is required.

(h) A City Registration Certificate issued pursuant to the terms of this chapter shall be valid for a term of one year from the date of issuance and, unless suspended or revoked, may be renewed annually upon application by the Massage Business Owner so long as the Massage Business is operating within the City. No Registration Certificate shall confer any vested right to any person or Business for more than the registration period.

Sec. 6-8.06. - Violations.

(a) In addition to any other remedy available under the law, violations of this chapter are subject to the administrative citations and penalties provisions in Title 1, Chapter 5 of this Code.

(b) Violations not capable of being remedied under 1-5.05(b) include, but are not limited to, substantial evidence of prostitution activity on the Massage Business’s premises or an immediate threat to health, safety or welfare.

Sec. 6-8.07. - City Registration Certificate suspension or revocation.
In addition to any other remedy available to the City under this code or state law, any Registration Certificate may be suspended or revoked by the Director where it is found by substantial evidence that any of the following have occurred:

(1) The Registration Certificate Holder and/or agent has violated any provision of this chapter or the grounds for denial of the Registration Certificate exist;

(2) The Registration Certificate Holder and/or agent is a person who, as established by clear and convincing evidence, has engaged in Disqualifying Conduct as defined in this Chapter;

(3) The Registration Certificate Holder and/or agent has failed to comply with one or more of the facilities and operations requirements of this Chapter;

(4) The Registration Certificate Holder and/or agent has engaged in fraud, misrepresentation, or false statement in conducting the Massage Business;

(5) The Registration Certificate Holder and/or agent has continued to operate the Massage Business after the City Registration Certificate or Registration has been suspended; or

(6) The Registration Certificate Holder and/or agent has failed to apply with the City for an amended City Registration Certificate within twenty (20) Days after the occurrence of any circumstance which substantially changes the registration information initially provided to the City pursuant to section 6-8.05, including, but not limited to the termination of Certified Massage Practitioners; or

(7) Massage treatments have been performed on the premises of the Massage Business, with or without the Registration Certificate Holder’s actual knowledge, by any person who:

a. Does not have a valid CAMTC certification; or

b. As established by clear and convincing evidence, has engaged in conduct or has been convicted of the offenses described as Disqualifying Conduct.

Sec. 6-8.08. - Hearing on revocation or suspension of City Registration Certificate.

(a) Upon determining that grounds for revocation or suspension exist, as set forth in section 6-8.07, the Community Development Director shall furnish written notice of the proposed revocation or suspension to the Registration Certificate Holder. The notice shall summarize the principal reasons for the proposed revocation or suspension, shall state that the Registration Certificate Holder may request a hearing within fifteen (15) Days of the postmarked date on the notice, and shall be delivered by mailing the notice to the location of the Massage Business (and the person designated for service on the Certificate, if different) and the property owner. Within fifteen (15) Days after the mailing of the notice, the Registration Certificate Holder may file a request for hearing with the Community Development Director. If the request for a hearing is timely filed and the appropriate fee is paid, the Community Development Director shall schedule the suspension/revocation hearing.

(b) Upon timely receipt of a written request for a hearing, the Community Development Director shall conduct a hearing within forty-five (45) Days of the filing of the request. The hearing may be continued upon the mutual consent of the parties. Notice of time and place of the hearing shall be given to the Registration Certificate Holder by mailing the notice to the location of the Massage Business (and the person designated for service on the Certificate, if different) and the property owner, at least fifteen (15) Days in advance of the date set for the hearing. At the hearing, the Director shall permit any interested person to present any relevant evidence bearing on the issues involved in the
matter. In conducting the hearing, technical rules relating to evidence and witnesses shall not apply. Any relevant evidence may be admitted if it is material and if it is evidence customarily relied upon by responsible persons in the conduct of their affairs regardless of the existence of any common law or statutory rule which might make admission of the evidence improper over objection in civil actions. Hearsay evidence may be admissible if it is the sort upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The rules of privilege shall be applicable to the extent they are permitted in civil actions.

(c) At the conclusion of the hearing, the Community Development Director shall have fifteen (15) Days to decide whether the grounds for revocation or suspension exist and shall submit a written report with its conclusions. If the Community Development Director determines that any grounds for revocation or suspension exist, as provided in section 6-8.07 of this chapter, the Director shall revoke or suspend the Registration Certificate. A copy of the decision shall be mailed to the Massage Business and to the person designated for service on the Certificate, if different, and the property owner. The resolution shall provide notice of the right to appeal the decision. Within fifteen (15) Days after the mailing of the notice, the Registration Certificate Holder may file a request for an appeal hearing with the City Clerk. An application for an appeal must include a general statement specifying the basis for the appeal and the specific issue of the decision being appealed. An appeal must be accompanied by supporting evidence substantiating the basis for the appeal and the appropriate fee for an appeal hearing. The scope of the appeal hearing pursuant to this section shall be limited to those issues raised by the appellant in the written appeal statement.

(d) If a timely appeal is filed, the effect of the Community Development Director’s decision will be stayed pending the Hearing Officer’s resolution of the matter unless the Community Development Director specifically finds that the public health and safety is endangered.

(e) The appeal hearing before the Hearing Officer shall be conducted as described above for appeal hearings in 6-8.05(e)(2)- (10). Notice of the appeal hearing and decision shall also be mailed to the property owner.

(f) Upon revocation of a City Registration Certificate, the Massage Business shall immediately cease operation and surrender the registration certificate, and, if so ordered by the Community Development Director, no other Massage Business shall be permitted to operate at that location by any person for a period of 1 year. If the operator is not also the legal owner of the real property on which the Massage Business is situated, notice of the revocation and the period of prohibition shall be provided by the Community Development Director to the property owner.

Sec. 6-8.09. - Conditions of Approval.

The Director or Hearing Officer may condition any City Registration Certificate if they find that grounds for denial or revocation of a Registration Certificate exist.

Sec. 6-8.10. - Hearing Fees.

All hearings held as provided in this chapter may be subject to a filing fee in an amount established by the City Council resolution.

Sec. 6-8.11. Reapplicaton after denial or revocation.

(a) An applicant for a City Registration Certificate under this chapter whose application for registration has been denied may not reapply for registration for a period of one (1) year from the date of the denial. However, a reapplication prior to the termination of one (1) year may be made if accompanied by evidence that the ground(s) for denial of the application no longer exist. Notwithstanding, if an application or renewal is denied
due to criminal activity at the Business, no reapplication for a new Massage Business at the same location will be accepted within one (1) year after the effective date of the denial.

(b) A Registration Certificate Holder under this chapter whose registration or renewal has been revoked or denied may not reapply for a Registration Certificate for a period of one (1) year from the date of the revocation or denial.

(c) If an application or renewal is denied due to criminal activity at the Business, no reapplication for a new Massage Business at the same location will be accepted within one (1) year after the effective date of the denial.

Sec. 6-8.12. - No refund of fee.

No refund or rebate of a Registration Certificate fee shall be allowed regardless of whether the City Registration Certificate has been suspended or revoked, or because the Registration Certificate Holder discontinues an activity for which a City Registration Certificate is required pursuant to this chapter.

Sec. 6-8.13. - Inspection by officials.

The Investigating and enforcing officials, including but not limited to the Los Angeles County Sheriff’s Department; Los Angeles County Health Department; or the City’s community development director, code enforcement, or building and safety officials, or their designees, shall have the right to enter the premises from time to time during regular business hours for the purpose of making reasonable inspections to observe and enforce compliance with building, fire, electrical, plumbing, or health regulations, and to enforce compliance with applicable regulations, laws, and statutes, and with the provisions of this chapter.

Sec. 6-8.14. - Notifications.

A Massage Business shall immediately report to the City’s business license department any of the following:

(a) Arrests of any Employees, Owners, or Managers of the registrant’s Massage Business for an offense other than a misdemeanor traffic offense;

(b) Resignations, terminations, or transfers of Certified Massage Practitioners employed by the registrant’s Massage Business;

(c) The occurrence of any event involving the registrant’s Massage Business or the Massage Practitioners employed there that constitutes a violation of this chapter or state or federal law.

Sec. 6-8.15. - Unlawful business practices may be enjoined; remedies cumulative.

Any Massage Business operated, conducted, or maintained contrary to the provisions of this chapter shall constitute an unlawful business practice pursuant to Business and Professions Code section 17200 et seq., and the City attorney or district attorney may, in the exercise of discretion, in addition to or in lieu of taking any other action permitted by this chapter, commence an action or actions, proceeding or proceedings in the superior court of Los Angeles County, seeking an injunction prohibiting the unlawful business practice and/or any other remedy available at law, including but not limited to fines, attorneys’ fees and costs. All remedies provided for in this chapter are cumulative.

Sec. 6-8.16. - Public nuisance.

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

Sec. 6-8.17. - Business location change.
Upon a change of location of a Massage Business, a new application shall be made to the Director for a City Registration Certificate pursuant to the requirements of Section 6-8.05 prior to commencing operation at the new location. The application shall be granted, provided all applicable provisions of this chapter and Title XI are complied with, and a change of location fee in an amount established by City council resolution to defray the costs of investigation and report has been paid to the City. A new location shall be subject to an Inspection under 6-8.13 before a new Registration will be issued.

Sec. 6-8.18. - Sale or transfer of Massage Business interest.

A sale or transfer of any interest in a Massage Business, which interest would be reported as required in this chapter upon application for a City Registration Certificate, shall be reported to the City Manager within ten (10) Days of the sale or transfer. The City Manager shall investigate any person receiving any interest in a Massage Business as a result of the sale or transfer, and if the person satisfies the requirements relating to City Registration Certificate applicants, the existing Registration Certificate shall be endorsed to include the person. A fee as set by resolution of the City council shall be paid to the City for the investigation by the City Manager necessitated by each sale or transfer.

Section 3. This ordinance shall take effect thirty days after the date of its passage. Existing massage businesses shall have ninety (90) days from the effective date of this ordinance to comply with any new facility and operating requirements in 6-8.05(f) and (g).

Section 4. The City Clerk shall certify to the passage of this ordinance and shall cause the same to be published as required by law.

PASSED, APPROVED AND ADOPTED this _____ day of _________ 2015.

________________________
Henry Sanchez Jr.
MAYOR

ATTEST:

________________________
Sandra Medina
CITY CLERK