

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF CULVER CITY, STATE OF CALIFORNIA, (1) REPEALING AND REPLACING CHAPTER 11.07 OF TITLE 11 OF THE CULVER CITY MUNICIPAL CODE PERTAINING TO MESSAGE BUSINESS REGULATIONS; AND (2) AMENDING SECTION 11.01.305 OF CHAPTER 11.01 OF THE CULVER CITY MUNICIPAL CODE REGARDING THE SCHEDULE OF BUSINESSES REQUIRING A CERTIFICATE OF COMPLIANCE OR PERMIT

The City Council of the City of Culver City, California, **DOES HEREBY ORDAIN** as follows:

SECTION 1: That City of Culver City Municipal Code (CCMC) Chapter 11.07 ("Massage Businesses") of Title 11 ("Business Regulations") is hereby repealed in its entirety.

SECTION 2: Chapter 11.07 of the Culver City Municipal Code, having been repealed in Section 1 above, is hereby replaced as follows:

CHAPTER 11.07 MESSAGE ESTABLISHMENTS

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11.07.050 Term of massage establishment permit

11.07.055 Issuance of permit

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2 **nonassignable and nontransferable**
3 **11.07.065** **Operating requirements – general conditions, facilities**
4 **and massage establishments**
5 **11.07.070** **Massage technicians and practice –**
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16 **11.07.100** **Appeal**
17 **11.07.105** **Prohibition from reapplying for a**
18 **massage establishment permit**
19 **11.07.110** **Surrender of massage establishment permit**
20 **11.07.115** **Applicability to existing massage establishments**
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24 **CHAPTER 11.07 MASSAGE ESTABLISHMENTS**

25 **§ 11.07.005** **FINDINGS AND PURPOSE.**

26 The City Council finds and declares as follows:
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1 A. The City is authorized, by virtue of the Constitution of the State of
2 California, California Government Code Section 51030 *et seq.*, and Business and
3 Professions Code Section 4600 *et seq.*, to regulate massage establishments by
4 imposing reasonable standards for, and conditions on, the lawful operation of
5 massage establishments.

6 B. The regulations imposed by this Chapter are reasonably necessary to
7 protect the health, safety and welfare of the citizens of the City of Culver City, as
8 well as to safeguard against illicit activities.

9 C. The regulations and restrictions contained in this Chapter are intended to
10 discourage massage establishments from becoming fronts for illicit activities, and
11 the means utilized in this Chapter bear a reasonable and rational relationship to the
12 goals sought to be achieved.

13 D. There is a significant risk of injury to massage clients by improperly
14 trained massage therapists, and this Chapter provides reasonable safeguards
15 against injury and economic loss.

16 E. The regulations contained in this Chapter provide comprehensive
17 regulations for the establishment, use and operation of businesses offering
18 massage services in the City of Culver City, so that the public health, safety and
19 welfare remain protected, while simultaneously being consistent with California law.

20 **§ 11.07.010 DEFINITIONS.**

21 For the purpose of this Chapter, the following definitions shall apply:

22 **APPLICANT.** Applicant shall include any individual or entity applying for a
23 permit under this Chapter, including any officer, director, partner, or other duly
24 authorized representative applying on behalf of an entity.

25 **BUSINESS TAX CERTIFICATE.** The certificate issued by the City's Tax
26 Collector after payment of the business tax fee as set forth in Chapter 11.01 of the
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1 City of Culver City Municipal Code. The term **LICENSE** is synonymous and
2 interchangeable with the term **BUSINESS TAX CERTIFICATE**.

3 **CITY**. City of Culver City, California.

4 **CITY MANAGER**. City Manager of the City of Culver City, or his or her
5 designee.

6 **CODE**. The City of Culver City Municipal Code, and any other ordinances,
7 resolutions, and regulations adopted therein.

8 **COUNTY**. County of Los Angeles, California.

9 **EMPLOYEE**. Each person who renders any service, with or without
10 compensation, for the owner, Permittee, or agent of either an owner or Permittee of
11 a Massage Establishment. For purposes of this Chapter, the term **EMPLOYEE** shall
12 include part-time, full-time, temporary, or permanent Employees.

13 **LOBBY**. One room or designated area, adjacent to a public entry, which is
14 used for an entry or waiting room for customers or other persons authorized to enter
15 the premises.

16 **MANAGER**. Any person(s) designated by the Massage Establishment to act
17 as the representative or agent of the Massage Establishment in managing day-to-
18 day operations with corresponding liabilities and responsibilities, and/or the person
19 in apparent charge of the premises where the Massage Establishment is located.
20 Evidence of management includes, but is not limited to, evidence that the individual
21 has the power to direct, supervise, or hire and dismiss Employees, controls hours of
22 operations, creates policy rules, or purchases supplies.

23 **MASSAGE**. Any method of manipulating the soft tissues of the human body
24 for remedial, health, hygienic, relaxation or any other reason or purposes, whether
25 by means of pressure, acupressure on or friction against, or stroking, kneading,
26 rubbing, tapping, pounding, vibrating, stimulating, or any other manner of touching
27 the external parts of the human body with the hands, or with or without the aid of
28 any mechanical or electrical apparatus or appliances, or with or without

1 supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders,
2 creams, lotions, ointments, or other similar preparations commonly used in this
3 practice, type of business or trade. **MASSAGE TREATMENT, MASSAGE**
4 **SERVICE, and MASSAGE ACTIVITY** are included within this definition for
5 purposes of this Chapter.

6 **MASSAGE CERTIFICATE.** A certificate to practice massage, issued by the
7 California Massage Therapy Council (CAMTC) pursuant to California Business and
8 Professions Code Sections 4600 *et seq.* (or successor provision or provisions).

9 **MASSAGE ESTABLISHMENT.** Any business or enterprise having a fixed
10 place, facility or location of business conducted within the City of Culver City, where
11 any person, firm, association, partnership, limited liability company, corporation, or
12 combination of individuals, engages in, conducts, carries on or permits to be
13 conducted or carried on, for money or any other consideration, the administration to
14 another person of a massage, bath, or health treatment involving massages or
15 baths including, but not limited to, fomentation, electric or magnetic treatments,
16 alcohol rubs, or any other type of system for treatment or manipulation of the human
17 body with or without any character of bath, such as Turkish, Russian, Swedish,
18 Japanese, vapor, shower, electric tub, sponge, mineral, fomentation, or any other
19 type of bath.

20 **MASSAGE ESTABLISHMENT PERMIT.** The permit issued pursuant to the
21 provisions of this Chapter required to operate or manage a Massage Establishment.

22 **MASSAGE ROOM.** A cubicle, booth, room, or enclosed or semi-enclosed
23 area within a Massage Establishment where massage services are performed on
24 patrons.

25 **MASSAGE TECHNICIAN.** Any person who administers to another person a
26 massage as defined herein, within a Massage Establishment or off-premises, for
27 any form of consideration or in exchange for anything of value whatsoever. The
28 terms **MASSAGE THERAPIST, MASSAGE PRACTITIONER, MASSAGE**

1 **TRAINEE, MASSEUR, or MASSEUSE** are included within this definition for
2 purposes of this Chapter.

3 **OFF PREMISES.** A massage performed or administered for money or other
4 consideration by a Massage Technician with a Massage Certificate at a location
5 other than a Massage Establishment with a permit.

6 **OWNER.** All persons who have any ownership interest in a Massage
7 Establishment. An owner shall also mean the individual(s) or entity whose name
8 appears on the City Business Tax Certificate or Massage Establishment Permit.

9 **PERMIT ADMINISTRATOR.** The Chief Financial Officer of the City of Culver
10 City, or his/her designee, or other person designated by the City Manager.

11 **PERMITTEE.** Any person or entity to whom a current and valid City-issued
12 Massage Establishment Permit has been issued.

13 **PERSON.** Any natural person, individual, or corporation, limited liability
14 company, partnership, association or other group, or combination of individuals
15 and/or groups, acting as an entity.

16 **RESPONSIBLE PERSON.** All owners of the Massage Establishment,
17 including all officers, directors, managers, partners and all other persons with
18 authority, including apparent authority, over the premises of the Massage
19 Establishment.

20 **SPECIFIED ANATOMICAL AREAS.** Any of the following human anatomical
21 areas: genitals, pubic regions, anuses, and female breasts below a point
22 immediately above the top of the areola.

23 **§ 11.07.015 MASSAGE ESTABLISHMENT PERMIT REQUIRED.**

24 Except as otherwise provided herein, it shall be unlawful for any person to
25 engage in, conduct or carry on, or to cause, allow, or permit, the engagement in,
26 conduct of or carrying on the business or operation of a Massage Establishment
27 within the City without first obtaining a current and valid Massage Establishment
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1 Permit pursuant to the provisions of this Chapter, and complying with all other
2 applicable provisions of this Code, including but not limited to, securing the
3 necessary business tax certificate as required by Chapter 11.01 of this Code.

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5 **§ 11.07.020 CAMTC MESSAGE CERTIFICATE REQUIRED.**

6 A. No person shall perform, administer or practice massage, or advertise to
7 provide massage services in the City, without first obtaining a current and valid
8 Massage Certificate issued by the California Massage Therapy Council (CAMTC)
9 pursuant to California Business and Professions Code Sections 4600 *et seq.* (or
10 successor provision or provisions).

11 B. All persons who have been issued a current and valid Massage Certificate
12 and who provide a massage to the public in the City for any form of compensation,
13 and who are not employed by, or affiliated with, a Massage Establishment but
14 provide off-premises massage services, as defined in this Chapter, shall also apply
15 for and obtain a current and valid business tax certificate as required by Chapter
16 11.01 of this Code.

17 **§ 11.07.025 EXEMPTIONS.**

18 The requirement to have a current and valid Massage Establishment Permit or a
19 Massage Certificate shall not apply to the following classes of individuals, and no
20 Massage Establishment Permit or Massage Certificate shall be required of such
21 persons, while engaged in the performance of the duties of their respective
22 professions:

23 A. Physicians, surgeons, chiropractors, osteopaths, or physical therapists
24 who are duly licensed to practice their respective professions in the State of
25 California. This exemption only applies if the massage is performed by the licensed
26 professional or by a staff member of said licensed professionals in the course of
27 treatment prescribed by said professional and only when the prescribing
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1 professional is present on the premises.

2 B. Nurses who are registered or licensed as such under the laws of the
3 State of California, and who are under the direct supervision of a state licensed
4 physician, surgeon, chiropractor or osteopath.

5 C. Barbers, beauticians, and manicurists who are duly licensed under the
6 laws of the State of California while engaging in the practice within the scope of their
7 respective licenses, except that this exemption applies solely for the massaging of
8 the neck, face or scalp of the customer or client of said barber or beautician or in the
9 case of a licensed manicurist, the massaging of the forearm, hands, calves or feet.

10 D. Coaches and trainers while acting within the scope of their employment at
11 an accredited high school, junior college, college or university.

12 E. Trainers of amateur, semi-professional or professional athletes or athletic
13 teams while acting within the scope of their role as trainer.

14 F. Acupuncturists who are duly certified to practice their profession in the
15 State of California. This exemption herein only applies if the massage therapy is
16 performed by the licensed acupuncturist professional to the treated portion of the
17 patient's body. If a duly licensed acupuncturist wishes to provide massage therapy
18 by another individual(s), said individual(s) must obtain and possess a current and
19 valid Massage Certificate and the acupuncturist office must obtain a Massage
20 Establishment Permit form the City of Culver City in compliance with all codes and
21 the California Acupuncture Board.

22 G. Hospitals, nursing homes, sanatoriums, or other health care facilities duly
23 licensed by the State of California.

24 **§ 11.07.030 MESSAGE ESTABLISHMENT PERMIT – APPLICATION.**

25 A. Any person seeking to obtain a permit to operate a Massage
26 Establishment shall submit a written application, signed under penalty of perjury to
27 the City using a form adopted by the City for that purpose. The application shall be
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1 accompanied by a nonrefundable filing fee established by resolution of the City
2 Council to defray the cost of the investigation required by this Chapter. The filing fee
3 due under this section shall be paid in full regardless of the duration for which the
4 permit may be valid.

5 B. The application shall be completed and signed by the Applicant(s). If the
6 Applicant is not a natural person, it shall be signed by a representative authorized to
7 act on behalf of the entity in accordance with paragraph E(1)(b) of this section.

8 C. The application and fee required pursuant to this section shall be in
9 addition to any other license, permit, or fee required by any other section or chapter
10 of this Code or ordinance hereafter adopted.

11 D. The submittal of an application for a permit does not authorize the
12 operation of a Massage Establishment unless and until such permit has been
13 properly granted by the City, nor does the possession of a current and valid permit
14 authorize the possessor of the permit to perform work for which a Massage
15 Certificate is required.

16 E. The application for a Massage Establishment Permit shall contain or be
17 accompanied by the following information for the Applicant and for each
18 Responsible Person whenever required of the Applicant:

19 1. The type of ownership of the business (i.e., individual, partnership,
20 corporation, limited liability company or otherwise):

21 (a) If the Applicant is not a natural person, the name of the entity shall
22 be set forth exactly as shown in its operative governing documents, including any
23 partnership agreement, limited partnership agreements, articles of incorporation,
24 limited liability company statement, and as reflected in any filing or recording with a
25 public agency, including the California Secretary of State and the county recorder's
26 office, including any fictitious business statement, together with the state and the
27 date of formation or registration, and the legal names and residence addresses of
28 each of its officers, directors, members, partners, principals, and each shareholder

1 or interest holder holding more than five percent (5%) of the stock of the Applicant.

2 A copy of the certificate, registration or other official form issued by the governing
3 agency shall be provided with the application.

4 (b) An Applicant shall designate one of its owners, officers, directors,
5 managers or general partners to act as its designated authorized officer. Such
6 person shall complete and sign all application forms required for an Applicant under
7 this Code, but only one application fee shall be charged. No change of a designated
8 authorized officer shall be effective until and unless a change application is filed with
9 the City to change the authorized officer and is approved by the Permit
10 Administrator, but no additional inspection shall be necessary. The designated
11 authorized officer must at all times meet all of the requirements established by this
12 Chapter. A permit may be suspended by the Permit Administrator immediately in
13 the event that the designated authorized officer is not in compliance with all
14 requirements of this Chapter. The suspension shall continue until the authorized
15 officer is in compliance, as confirmed in writing by the Permit Administrator, or a new
16 authorized officer is designated and approved by the City. If no such approval is
17 issued within ninety (90) days of the suspension, the permit is deemed canceled,
18 unless extended by the Permit Administrator in writing, at the Permit Administrator's
19 discretion. A new initial application for permit must be filed, together with the
20 payment of fees applicable thereto, and a permit issued before the Massage
21 Establishment may commence operating.

22 2. The true, full, and precise name under which the Massage
23 Establishment is to be conducted.

24 3. The proposed address where the Massage Establishment is to be
25 located, along with all telephone numbers for the Massage Establishment.

26 4. The proposed hours of operation.

27 5. A complete current list of the names and residence addresses of all
28 proposed Massage Technicians, aides, trainees, independent contractors, and other

1 Employees who are or will be employed in the Massage Establishment, if known. If
2 not known at the time of submission of the application, the Applicant shall provide
3 the required information no later than ten (10) calendar days prior to opening for
4 business. True and correct copies of Massage Certificates for each proposed
5 Massage Technician shall be submitted with the application.

6 6. The name, residence addresses, and telephone numbers of all
7 Managers as defined in this chapter.

8 7. A description of any other businesses to be operated on the same
9 premises as the proposed Massage Establishment, or within the city or the state,
10 which is owned or operated by the Applicant.

11 8. The name and address of the owners and lessors of the real property
12 where the proposed Massage Establishment is to be conducted. In the event the
13 Applicant is not the legal owner of the property, the application must be
14 accompanied by a copy of the lease and a notarized affidavit from the owner of the
15 property acknowledging that a Massage Establishment may be located at the
16 designated premises.

17 9. The complete business, occupation and employment history for eight
18 (8) years preceding the date of the submittal of application for the Applicant,
19 Responsible Persons and Managers, including, but not limited to, a Massage
20 Establishment or similar type of business history and experience of the Applicant,
21 Responsible Persons and Managers to operate such a business.

22 10. The complete massage permit history for the Applicant, Responsible
23 Persons and Managers; whether such person(s) have ever had any similar type of
24 permit or license issued by any agency, board, city, county, territory or state; the
25 date of issuance of such a permit or license, whether the permit or license has been
26 or was ever denied, revoked or suspended; if a vocational or professional license or
27 permit has been or was ever denied, revoked or suspended; if the Applicant,
28 Responsible Persons or Managers has ever been required to surrender a permit or

1 license as a result of pending criminal charges or in lieu of said permit or license
2 being suspended or revoked and the reason thereof.

3 11. All criminal convictions of the Applicant, Responsible Persons or
4 Managers, including pleas of nolo contendere, within the last ten (10) years
5 including those convictions dismissed or expunged pursuant to Penal Code Section
6 1203.4, but excluding minor traffic violations, and the date and place of each such
7 conviction.

8 12. A complete set of fingerprints (Live Scan) taken by the City's Police
9 Department for each Applicant, Responsible Person and Manager. The Applicant
10 shall be responsible for payment of any fingerprinting fee.

11 13. Two (2) portrait photographs at least two inches by two inches in size
12 taken within the last month for each Applicant, Responsible Person and Manager.

13 14. Authorization for the City, its agents and employees to seek
14 verification of the information contained in the application.

15 15. Such other identification and information as the City may reasonably
16 require in order to verify the truth of the matters herein specified and as required to
17 be set forth in the application.

18 16. A statement in writing and dated and signed by the person providing
19 the information that he or she certifies under penalty of perjury that all information
20 contained in the application is true and correct.

21 17. A written approval, or certificate of occupancy, from any division,
22 department or agency with authority or jurisdiction over the real property, and
23 building(s) or structure(s) thereon, in which the Massage Establishment is to be
24 located, including but not limited to, from the City's Planning and Building Safety
25 Divisions, as well as the City's Fire Department. The approval, or certificate of
26 occupancy, must be submitted to the City prior to the application for permit final
27 approval. Any required inspection fees shall be the sole responsibility of the
28 Applicant. If the approvals or certificate of occupancy are not received by the City,

1 within ninety (90) calendar days of filing the application, said application shall be
2 deemed void.

3 F. The Applicant, Responsible Person and Manager shall also provide the
4 following personal information:

5 1. Full, true name, and all aliases used.

6 2. Date and place of birth.

7 3. California driver's license, California identification card, or any other
8 government issued identification card verifying the name and date of birth, as well
9 as physical identifying information that includes information such as height, weight,
10 gender, and color of hair and eyes.

11 4. The current residence address residence telephone number, and all
12 previous residential addresses for a minimum of eight (8) years immediately
13 preceding the present address of the Applicant, Responsible Person and Managers
14 and the dates of residence for each address.

15 5. A mobile phone number and an e-mail address, if available.

16 G. If, during the term of a permit, the Permittee proposes any change in
17 information submitted on the original or renewal application, the Permittee shall
18 notify the City in writing of any such proposed change, and same must be approved
19 by the Permit Administrator before the change takes place.

20 H. If an Applicant, Responsible Person or Manager also desires to act as a
21 Massage Technician or off premises Massage Technician, he or she shall also
22 satisfy the requirements for same as set forth in this Chapter.

23 I. At the discretion of the City, an Applicant may be required to notify any
24 residences within 300 feet of the proposed Massage Establishment by first class
25 mail, at Applicant's expense, so that residents may submit comments to the City.
26 The form and format of the notice will be provided to the Applicant by the City.
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1 **§ 11.07.035 REVIEW OF APPLICATION AND INVESTIGATION.**

2 Upon receipt of a complete and signed written application for a Massage
3 Establishment Permit, the City shall conduct an investigation of facts with the
4 appropriate City and County agencies. This review process shall ensure that the
5 contents and information on each Massage Establishment Permit application are
6 consistent with the intent and purpose of this Chapter. Within ninety (90) calendar
7 days of receipt of a completed application and all required documentation and
8 approvals, the City shall approve, conditionally approve, or deny the application.
9 The ninety (90) days period may be extended for up to thirty (30) additional days, if
10 necessary, to complete the investigation.

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12 **§ 11.07.040 MASSAGE ESTABLISHMENT PERMIT – GROUNDS FOR**
13 **ISSUANCE OR DENIAL; NOTICE OF DENIAL; RIGHT TO APPEAL.**

14 A. After the completion of the City's investigation, the Permit Administrator
15 shall not issue a Massage Establishment Permit if any of the following findings are
16 made:

17 1. The Applicant has failed to submit a complete application or pay the
18 prescribed application fee as required by Section 11.07.030 of this Chapter, or all
19 other requirements of this Chapter have not been satisfied.

20 2. The Applicant, Responsible Person, Manager or any of their officers,
21 directors, managers, members, partners or any person directly engaged or retained
22 by or employed in the Massage Establishment, within eight (8) years preceding the
23 date of the application:

24 a. Has been convicted of any crime involving dishonesty, fraud,
25 deceit, or moral turpitude, or any crime committed while engaged in the ownership
26 or management of a Massage Establishment or the practice of massage.
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1 b. Has been convicted of a violation of any criminal law relating to the
2 pandering, prostitution, or human trafficking, including without limitation California
3 Penal Code sections 266h, 266i, 315, 316, 318, 647, or any similar law.

4 c. Has been convicted of any offense involving the illegal sale,
5 distribution, or possession of a controlled substance.

6 d. Has had a massage permit or Massage Certificate or other similar
7 license or permit denied, suspended, or revoked for cause by the City, any state,
8 local agency or other licensing authority, or has had to surrender a permit or license
9 as a result of pending criminal charges or in lieu of said permit or license being
10 suspended or revoked.

11 3. The Applicant has made a false, misleading or fraudulent statement or
12 omission of fact to the City in the application, or in the permit application process.

13 4. The Applicant is not at least eighteen (18) years of age.

14 5. The Massage Establishment does not comply with all applicable laws
15 and regulations, including, but not limited to, health, building and safety, zoning, and
16 fire requirements and standards.

17 B. If the Permit Administrator, upon completion of the investigation
18 determines that the Applicant does not fulfill the requirements as set forth in this
19 Chapter, the City shall deny said application and not issue a permit by dated written
20 notice to the Applicant. The City shall serve the Applicant, either personally or by
21 first class mail addressed to the address listed on the application, with a written
22 notice of denial. Said notice shall state the reasons for the denial and the right of
23 the Applicant to appeal the decision to the City Manager, and that the Permit
24 Administrator's decision will be final if no written appeal is timely submitted to and
25 received by the City, pursuant to the provisions in Section 11.07.100 of this Chapter.

26 **§ 11.07.045 SERVICE OF ANY CITY NOTICE, AND DATE OF SERVICE.**

27 A. Except as otherwise expressly required by a provision of this Chapter, any
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1 notice required by this Chapter may be served by personal delivery to any Applicant
2 or Permittee, or by first class mail. The date of service shall be the date it is
3 personally delivered or placed in a U.S. Postal Service receptacle.

4 B. Except as otherwise expressly required by a provision of this Chapter, any
5 notice issued to any Applicant or Permittee shall be sent to the mailing address as
6 listed on the application submitted to the City. Failure of any Applicant or Permittee
7 to receive a properly addressed notice by mail shall not invalidate any action,
8 decision, determination, or proceeding pursuant to this Chapter.

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10 **§ 11.07.050 TERM OF MASSAGE ESTABLISHMENT PERMIT.**

11 A. An initial Massage Establishment Permit is valid upon issuance and
12 shall continue in effect until it expires as set forth in this Section, unless sooner
13 suspended, revoked, or abandoned as set forth in this Chapter.

14 B. Every Massage Establishment Permit first issued on or before
15 September 30 of each year shall expire on December 31 of the calendar year in
16 which it was issued, unless sooner suspended, revoked, or abandoned as set forth
17 in this Chapter.

18 C. Every Massage Establishment Permit first issued on or before October
19 1 of each year shall expire on December 31 of the following calendar year, unless
20 sooner suspended, revoked, or abandoned as set forth in this Chapter.

21 **§ 11.07.055 ISSUANCE OF PERMIT.**

22 No permit issued under this Chapter shall confer any right to operate or conduct
23 any business in the City to any person for a period exceeding the term of the permit.
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1 **§11.07.060 MESSAGE ESTABLISHMENT PERMIT – NONASSIGNABLE AND**
2 **NONTRANSFERABLE.**

3 A. A Massage Establishment Permit issued under this Chapter is valid only
4 as to the Permittee and approved site, and is therefore nontransferable to other
5 persons, projects or locations.

6 B. No Massage Establishment Permit may be sold, transferred or assigned
7 by a Permittee, or by operation of law, to any other person, persons, or entities. Any
8 such sale, transfer, or assignment, or attempted sale, transfer, or assignment shall
9 be deemed to constitute a voluntary surrender of such permit and such permit shall
10 thereafter be null and void, except as hereinafter set forth.

11 **§ 11.07.065 OPERATING REQUIREMENTS – GENERAL CONDITIONS,**
12 **FACILITIES AND MESSAGE ESTABLISHMENTS.**

13 A. **General Conditions.** All Massage Establishments shall comply with the
14 following general conditions, and any other conditions specified by the City, which
15 are consistent with applicable state law.

16 1. *Name Specified in Permit.* No person granted a permit pursuant to this
17 Chapter shall use any name or conduct business under any name or designation
18 not specified in his or her permit. This prohibition includes advertising under any
19 name or designation not specified in his or her permit.

20 2. *Employ Only Massage Technicians with Current and Valid Massage*
21 *Certificate.* No Permittee shall employ any person as a Massage Technician in that
22 capacity who does not have a current and valid certificate issued by CAMTC,
23 pursuant to California Business and Professions Code sections 4600 et seq. (or
24 successor provision or provisions), or whose certificate is not in good standing.

25 3. *Manager on the Premises at All Times.* All Massage Establishments
26 required to have a permit under this Chapter shall have a Manager on the premises
27 at all times when the Massage Establishment is open for business. The Permittee
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1 as represented in the approved application for a Massage Establishment Permit
2 shall be deemed a Manager for the purposes of this Section. Any additional
3 Managers must submit to the City all required information under Section 11.07.030
4 of this Chapter, and must be approved by the Permit Administrator, before serving
5 as a Manager. Said amended or supplemental information to the approved
6 application shall be accompanied by a fee to cover the reasonable costs associated
7 with this investigation.

8 4. *Permit and Massage Certificates Displayed.* The Massage
9 Establishment Permit and the Massage Certificate for each Massage Technician
10 shall be displayed in an open and conspicuous place readily visible, such as in the
11 lobby of the Massage Establishment.

12 5. *Hours of Operation.* The hours of operation must be posted in the
13 front window or façade of the building where the Massage Establishment is located,
14 and clearly visible from the outside.

15 6. *At Least One Certified Massage Technician on the Premises at All*
16 *Times.* No Massage Establishment required to be permitted under this Chapter shall
17 open for business without having at least one Massage Technician who holds a
18 current and valid Massage Certificate for that specific Massage Establishment.
19 There shall be at least one (1) Massage Technician who holds a current and valid
20 Massage Certificate on the premises at all times when the establishment is open.

21 7. *Permittee Responsibility.* All Permittees and all of their Responsible
22 Persons and Managers shall be responsible for the conduct of all Employees or
23 independent contractors while they are on the Massage Establishment premises.
24 Any act or omission of any Employee or independent contractor constituting a
25 violation of the provisions of this Chapter shall be deemed the act or omission of the
26 Permittee for purposes of determining whether the permit shall be revoked,
27 suspended, or not renewed.
28

1 8. *Attire.* All Employees, including Massage Technicians, shall at all times
2 while on the business premises, wear clean clothing that is not transparent, see-
3 through or which substantially exposes undergarments, breasts, buttocks or
4 genitals.

5 9. *Prohibited Conduct and Activities.* It is unlawful for Permittees, their
6 Responsible Persons, Managers, Employees, independent contractors, off-premises
7 massage services, or Massage Technicians, to conduct, engage in, cause, allow, or
8 permit any of the following conduct or activities:

9 (a) Any sexual activity upon the premises of the Massage
10 Establishment or the off-premises massage location.

11 (b) Expose specified anatomical areas in the presence of any client,
12 patron, customer, or guest.

13 (c) Make intentional physical contact with the specified anatomical
14 areas of any client, patron, customer, or guest.

15 10. *Register of Personnel:* The Permittee shall maintain a register listing
16 all Massage Technicians, including Employees and independent contractors. Said
17 register shall be maintained on the premises for a minimum period of two (2) years
18 after Massage Technicians cease their employment. The Permittee shall make the
19 personnel register immediately available for inspection upon demand of a
20 representative of the City at all reasonable times. The personnel register shall
include, but not limited to, the following information:

21 (a) The proper name of the Massage Technician, including his or her
22 first, middle, and last name(s).

23 (b) Any nicknames, pseudonyms, or aliases used by the Massage
24 Technician.

25 (c) The Massage Technician's current residence address and relevant
26 phone numbers (including, but not limited to, home and cellular numbers).
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1 (d) The age, date of birth, gender, height, weight, color of hair and
2 eyes of each Massage Technician.

3 (e) The Social Security number of each Massage Technician.

4 (f) The date of hire, and if applicable, termination.

5 (g) All information contained in a Massage Technician's Massage
6 Certificate, including certificate number, date of issuance, and expiration date.

7 (h) The duties of each Massage Technician.

8 11. *Compliance with Applicable Laws.* At all times, all Permittees,
9 Responsible Persons, Managers and all Employees and Massage Technicians shall
10 comply with all provisions of this Chapter, and any applicable provisions of this
11 Code, local laws, of State of California laws.

12 **B. Facilities.** All Massage Establishments shall comply with the following
13 operating requirements for facilities and any other conditions specified by the City.

14 1. *Real Property, and Structures Thereon.* The premises, and structures,
15 alterations, or improvements thereon, in which a Massage Establishment is
16 proposed to be located on, or is located, shall comply with all applicable laws,
17 including, but not limited to zoning, fire, and building standards, Codes, and
18 regulations.

19 2. *Treatment or Services List.* The Permittee shall post and maintain a
20 list of treatments or services available and the cost of such treatments or services in
21 an open and conspicuous place of the Massage Establishment and in any other
22 location on the premises as the Permittee deems appropriate. No Permittee shall
23 allow, cause, or permit, and no Massage Technician shall offer or perform, any
24 treatment or service other than those posted.

25 3. *Ventilation and Lighting.* Minimum ventilation and lighting shall be
26 provided in accordance with the City's Building Code and other adopted California
27 codes pertaining to structures or construction. Minimum lighting must be provided in
28 accordance with the City's Building Code, and, in addition, at least one unobstructed

1 artificial light of not less than 900 lumens must be provided in each enclosed room
2 or booth where massage services are being performed on a patron.

3 4. *Requirements for Toilet Facilities.* A minimum of one (1) toilet and one
4 (1) separate washbasin shall be provided for the patrons in every Massage
5 Establishment. Each washbasin shall provide soap or detergent, hot and cold
6 running water at all times, and shall be located within close proximity to the
7 massage rooms. A permanently installed soap dispenser, filled with soap, and a
8 single service towel dispenser shall be provided at the restroom washbasin. Bar
9 soaps shall not be used. A trash receptacle shall be provided in each toilet room.

10 5. *Bathing, Dressing, and Locker Facilities.* If a Massage Establishment
11 requires patrons to be separated from their possessions or valuables during their
12 massage or while at the Massage Establishment, then patrons must be provided a
13 location or means to secure those items. If a shower is included in the premises, the
14 shower facility shall be equipped with soap or detergent and hot and cold running
15 water at all times, and shall be located within close proximity to the massage rooms.
16 Bar soap may not be used.

17 6. *Separate Rooms.* If male and female patrons are to be treated
18 simultaneously at the same Massage Establishment, separate massage rooms,
19 dressing, bathing and toilet facilities shall be available for male and female patrons
20 upon request. Any separate facility or room shall be clearly marked as such.

21 7. *Maintaining and Cleaning Rooms and Facilities.* All walls, ceilings,
22 floors, pools, showers, bathtubs, wet and dry heat rooms, steam or vapor rooms,
23 tables and all other physical facilities shall be in good repair and maintained in a
24 clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms or
25 cabinets, showers, compartments and toilet rooms shall be thoroughly cleaned and
26 disinfected at least once each day the business is in operation. Bathtubs shall be
27 thoroughly cleaned and disinfected after each use.
28

1 8. *Massage Table Coverings.* Pads used on massage tables shall be
2 covered with durable, washable plastic or other waterproof material acceptable to
3 the City or the County Health Department.

4 9. *Front Door.* One front door that enters into the lobby or other waiting
5 room shall be provided for customer, client or patron use. All customers, clients,
6 and patrons, and any other persons other than Employees shall be required to enter
7 and exit through the front door of the establishment.

8 **C. Operations of Massage Establishments.** Permittees, their Responsible
9 Persons, Managers and all those performing services at the Massage Establishment
10 who have a Massage Certificate, shall comply with the following Massage
11 Establishment operating requirements, and any other conditions specified by the
12 City.

13 1. *Clean and Sanitary Towels and Linens.* Clean and sanitary towels,
14 sheets and linens shall be provided for each patron of the Massage Establishment
15 or each patron receiving massage services. No common use of towels or linens
16 shall be permitted. Towels, sheets and linens shall be provided in sufficient quantity
17 and shall not be used by more than one person unless they have been first
18 laundered. Heavy white paper may be substituted for sheets; if such paper is used
19 once for each person then discarded into a sanitary receptacle. Separate closed
20 cabinets or containers shall be provided for the storage of clean and soiled linen and
21 shall be plainly marked clean and soiled.

22 2. *Sterilized Equipment.* Disinfecting agents and sterilizing equipment
23 approved by the County Health Department shall be provided for any instruments
24 used in performing any massage.

25 3. *Living Quarters Prohibited.* No person or persons shall be allowed to
26 reside, dwell, occupy or live inside the Massage Establishment at any time.

27 4. *Alcohol or drugs prohibited.* No person shall enter, be in, or remain in
28 or on, any part of a Massage Establishment while in the possession of, consuming,

1 or using or under the influence of, any alcoholic beverage or controlled substance.
2 Permittees, Responsible Persons and Managers shall each be responsible to
3 ensure that no such person shall enter or remain upon the premises of the Massage
4 Establishment. Service of alcoholic beverages is prohibited on the premises.

5 5. *Adult Oriented Merchandise Prohibited.* The use or possession of
6 adult oriented merchandise in or on any part of a Massage Establishment is
7 prohibited.

8 6. *Recordings.* No electrical, mechanical, or artificial device shall be
9 used by any persons employed by or contracted with the Permittee, or any of its
10 Employees, agents or representatives, including without limitation the Massage
11 Technician, for audio or video recording, or for monitoring the performance of a
12 massage, or the conversation or other sounds in the massage rooms, without the
13 knowledge and written consent of the patron.

14 7. *Client Draping.* Massage clients, patrons and customers must wear
15 some form of clothing or draping, which ensures coverage of the genital area, anus
16 and female breasts. No common use of such coverings shall be permitted and re-
17 use is specifically prohibited, unless adequately laundered prior to its re-use.

18 8. *Maintaining Treatment and Service Records.* The Permittee shall
19 cause a record to be maintained of the dates and hours of each treatment or
20 service, the name and address or other contact information for the patron, the name
21 of the Massage Technician administering such treatment or service, and a
22 description, or the type, of treatment or service administered. These records shall be
23 prepared prior to administering any massage, service or treatment, and shall be
24 retained for a period of one (1) year after such treatment or service. There records
25 shall be open to inspection upon demand only by officials charged with enforcement
26 of this Chapter or emergency personnel for emergency purposes, and for no other
27 purpose. City and County officials as designated in this Chapter may routinely and
28 periodically inspect the records to ensure compliance with this section. The

1 information furnished or secured as a result of any such records shall be used only
2 to ensure and enforce compliance with this Chapter, or any other applicable local,
3 state or federal laws, and shall remain confidential. Any unauthorized disclosure or
4 use of such information by the Permittee, Responsible Person, Manager, Employee,
5 or independent contractor of the Massage Establishment shall constitute a
6 misdemeanor.

7 9. *Hours of Operation:* Massage operations shall be carried on or
8 conducted, and the premises shall be open, only between the hours of eight (8:00)
9 a.m. and ten (10:00) p.m. The Applicant must advise the City, in writing, at the time
10 of submission of the application for a Massage Establishment Permit, of the hours of
11 operation within the times set forth above. The Permittee shall notify the City, in
12 writing, at least thirty (30) calendar days before the date of the effective change, of
13 any changes in the hours of operation. No person shall operate a Massage
14 Establishment or administer a massage in any Massage Establishment or
15 administer an off-premises massage between the hours of ten (10:00) p.m. and
16 eight (8) a.m. All customers, clients, patrons, and visitors shall be excluded from the
17 Massage Establishment during these hours and be advised of these hours. Any
18 massage beginning at any time before ten (10:00) p.m. must terminate at ten
19 (10:00) p.m.

20 10. *Areas Designated for Persons with Disabilities.* Nothing in this
21 Chapter exempts a Massage Establishment from complying with all applicable local,
22 state and federal laws and regulations pertaining to persons with disabilities.

23 11. *Doors.* All exterior doors (except back or rear exterior doors used only
24 for Employee entrance to and exit from the Massage Establishment) shall remain
25 unlocked during business hours, unless the Massage Establishment is a sole
26 proprietor with no employees (including independent contractors). All interior doors
27 (other than bathroom doors), including, but not limited to, all doors leading to
28 customer areas, the front reception, hallway or front exterior doors, shall not have

1 any locking mechanisms. A door leading from the lobby areas to customer areas, if
2 any, shall not have any locking mechanism or be capable of being locked or blocked
3 to prevent entry, in any manner.

4 12. *Access.* No person(s) other than a Permittee, Permittee's authorized
5 personnel or customers shall be allowed beyond the front lobby, which shall be
6 located directly inside the front door entrance, during the hours of operation. Each
7 other person found beyond the first interior door leading to the inside of the business
8 including, but not limited to, hallways, massage rooms, reception, or business
9 offices, or lounge area will be in violation of this Section. Entry doors to all rooms
10 shall not be obstructed by any means. This subsection shall not apply to City and
11 County officials responsible for enforcing the provisions of this Chapter, or any
12 applicable law, or who are conducting administrative periodic and routine
13 inspections as discussed herein.

14 13. *Discrimination.* No Massage Establishment may discriminate or
15 exclude patrons on in violation of local, state and federal laws and regulations.

16 14. *Notices.* The following notice shall be posted in every Massage
17 Establishment in a conspicuous place in that is easily visible to all persons entering
18 the premises and in each massage room:

19 NOTICE TO ALL PATRONS
20 THIS MESSAGE ESTABLISHMENT AND THE MESSAGE ROOMS
21 ARE NOT LOCKED FOR YOUR SAFETY AND PROTECTION. THIS
22 ESTABLISHMENT IS SUBJECT TO INSPECTION BY CITY OF
23 CULVER CITY OFFICIALS, INCLUDING THE CULVER CITY POLICE
24 DEPARTMENT, AS WELL AS COUNTY HEALTH OFFICIALS,
25 WITHOUT PRIOR NOTICE.

26 The language for said notice set forth above may be amended by Permit
27 Administrator. Every Massage Establishment required to post this notice shall be
28 required to pay for the cost of all notices required by this Section.

1 **§ 11.07.070 MESSAGE TECHNICIANS AND PRACTICE – GENERAL**
2 **CONDITIONS.**

3 All Massage Technicians shall comply with the following conditions:

4 A. No Massage Technician shall massage or cause, allow, or permit an
5 Employee to massage any specified anatomical areas, as defined in this Chapter, of
6 any patron. Nor shall any Massage Technician or Employee solicit or cause, allow,
7 or permit a patron to touch or massage in any manner the specified anatomical area
8 of a Massage Technician or Employee. No massage shall be given and no patron
9 shall be in the presence of any other person unless the patron's specified
10 anatomical areas are fully covered by a nontransparent covering or draping.

11 B. Massage Technicians shall display, and allow the Permittee to display, his
12 or her current and valid Massage Certificate in an open and conspicuous place
13 readily visible, such as in the lobby of the Massage Establishment.

14 C. The Massage Technician shall at all times when present in the Massage
15 Establishment have a California driver's license or California identification card, or
16 any other government-issued identification card that has a photograph and physical
17 identifying information of the Massage Technician. Such identification shall be
18 provided to the Chief of Police, or his or her designee, upon demand, or to any City
19 or County official conducting an investigation and/or who are participating in periodic
20 and routine inspections as regulated herein.

21 D. Any Massage Technician using a nickname, pseudonym, or alias other
22 than the name specified on their Massage Certificate and California driver's license,
23 California identification card, or any other government-issued identification card,
24 while conducting business or performing massages, must include said name in the
25 personnel register as required by Section 11.07.065(A)(10) of this Chapter.

26 E. A Massage Technician shall consent to, and shall not prevent, delay or
27 interfere with a lawful inspection of the Massage Establishment, or occupied
28 massage rooms, by the City's Divisions of Enforcement Services, Planning, Building

1 Safety, as well as the Fire Department, Police Department, Finance Department,
2 and the Los Angeles County Health Department, and any other City or County
3 division or department that has regulatory jurisdiction over the Massage
4 Establishment, or its Massage Technicians, Employees, or practices and activities
5 thereon, for the purpose of determining that the provisions of this Chapter or other
6 applicable laws, regulations, or standards are complied with and met.

7
8 **§ 11.07.075 INSPECTIONS OF MASSAGE ESTABLISHMENTS AND ITS**
9 **RECORDS.**

10 A. The City's Divisions of Enforcement Services, Planning, Building Safety,
11 as well as the Fire Department, Police Department, Finance Department, and the
12 Los Angeles County Health Department, and any other City or County division or
13 department that has regulatory jurisdiction over the Massage Establishment, or its
14 Massage Technicians, Employees or practices and activities thereon, shall have the
15 right to enter the Massage Establishment, and all rooms, building and structures
16 thereon, or portions thereof, at any time during business hours for the purpose of
17 making reasonable unscheduled inspections to observe and enforce compliance
18 with applicable regulations, laws, and provisions of this Chapter. During an
19 inspection, City and County personnel may also verify the identity of all Permittees,
20 Responsible Persons, Managers, Massage Technicians and Employees.

21 B. Records maintained in the ordinary course of business as required from
22 the Massage Establishment to keep pursuant to provisions of this Chapter,
23 including, but not limited to, personnel registers and records of services and
24 treatments rendered, may also be inspected by the aforementioned City and County
25 officials.

26 C. Inspections of the Massage Establishment shall be conducted during
27 business hours.
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1 **§ 11.07.080 MASSAGE ESTABLISHMENT PERMIT – CHANGE IN OWNERSHIP**
2 **WHEN THE PERMITTEE IS A PARTNERSHIP OR CORPORATION.**

3 A. One or more proposed partners in a partnership granted a Massage
4 Establishment Permit may make application to the Permit Administrator, together
5 with the fee established by the City Council, to amend the original application,
6 providing all information as required for partners in the first instance and, upon
7 approval thereof, the transfer of the interests of one or more partners to the
8 proposed partner or partners may occur. If the Permittee is a partnership and one
9 or more of the partners should die, one or more of the surviving partners may
10 acquire, by purchase or otherwise, the interest of the deceased partner or partners
11 without effecting a surrender or termination of such permit, and in such case, the
12 Massage Establishment Permit, upon notification to the Permit Administrator, shall
13 be placed in the name of the surviving partners.

14 B. If the Massage Establishment Permit is issued to a corporation, stock may
15 be sold, transferred, issued, or assigned to stockholders who have been named on
16 the application. If any stock is sold, transferred, issued, or assigned to a person not
17 listed on the application as a stockholder, the permit shall be deemed terminated
18 and void; provided, however, the proposed transferee may submit to the Permit
19 Administrator, together with the fee established by the City Council, an application to
20 amend the original application providing all information as required for stockholders
21 in the first instance, and, upon approval thereof, the transfer may then occur.

22 C. All changes in ownership as described in this section must be submitted
23 to the City within thirty (30) calendar days, along with any organizational documents
24 reflecting said changes.
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1 **§ 11.07.085 MESSAGE ESTABLISHMENT PERMIT – CHANGE OF NAME, OR**
2 **ALTERATIONS TO APPROVED FACILITY.**

3 A. The Permittee must advise the Permit Administrator within thirty (30)
4 calendar days of all changes of name or designation under which the business is to
5 be conducted. The change of name or designation shall be accompanied by a non-
6 refundable fee established by resolution of the City Council to defray the costs of
7 reissuance of the Massage Establishment Permit.

8 B. No Permittee shall operate, conduct, manage, engage in, or carry on the
9 business of a Massage Establishment under any name other than the name of the
10 Massage Establishment specified in the permit.

11 C. All required City approvals, plan approvals, and permits must be obtained
12 before causing, allowing, or permitting alterations to, and/or extensions or
13 expansions of, the existing building(s), structure(s), or portions thereof, approved as
14 a location for a Massage Establishment. Said alterations, extensions, or expansions
15 shall comply with all applicable laws, regulations and standards, including those
16 concerning building safety and occupancy.

17 **§ 11.07.090 RENEWAL OF MESSAGE ESTABLISHMENT PERMIT.**

18 A. Applications for the renewal of a Massage Establishment Permit shall be
19 filed with the Permit Administrator at least sixty (60) calendar days before the
20 expiration of the permit to be renewed. Temporary permits will not be issued. Any
21 Permittee allowing his or her permit to lapse or expire shall be required to submit a
22 new application and pay the corresponding original application fees.

23 B. Any Permittee desiring to obtain a renewal of his or her permit shall file a
24 written application under penalty of perjury on the required City form with the Permit
25 Administrator, who shall conduct an investigation. The renewal application shall be
26 accompanied by a non-refundable filing fee established by resolution of the City
27 Council to defray the costs of the investigation required by this Chapter. A Permittee
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1 submitting a renewal application shall be required to update the information
2 contained in his or her original permit application and provide any new or additional
3 information as may be reasonably required by the Permit Administrator in order to
4 determine whether the permit should be renewed.

5 C. The Permit Administrator shall have sixty (60) calendar days to investigate
6 the renewal application and shall render a decision within that time, but no later than
7 the date of expiration of the permit.

8 D. The Permit Administrator shall renew a permit if he or she confirms the
9 Permittee has been and remains in current compliance with all terms and conditions
10 of his or her City-issued permit, with all provisions of this Chapter, and with all state
11 and local laws applicable to Massage Establishments.

12 **§ 11.07.095 GROUNDS FOR SUSPENSION, REVOCATION, NONRENEWAL,**
13 **OR DENIAL; NOTICE OF CITY DECISION; AND APPEAL RIGHTS.**

14 A. Failure of a Permittee to comply with any requirement imposed by the
15 provisions of this Chapter (or successor provision or provisions) or pursuant to any
16 term or condition imposed on the Massage Establishment Permit, shall be grounds
17 for non-renewal, suspension, or revocation of the permit.

18 B. The Permit Administrator may also suspend, revoke, or refuse to renew a
19 Massage Establishment Permit if any of the following conditions exist:

- 20 1. A violation of any of the provisions of this Chapter.
- 21 2. A Permittee, Responsible Person, Manager or any Massage
22 Technician employed or contracted by the Permittee has been convicted of any law
23 specified in Sections 11.07.030 and/or 11.07.040 of this Chapter.
- 24 3. The Permit Administrator makes any findings necessary to deny a
25 permit pursuant to Section 11.07.040 of this Chapter.
- 26 4. Employing or retaining any person to perform massage services who
27 does not hold a current and valid Massage Certificate issued by CAMTC, pursuant
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1 to California Business and Professions Code Sections 4600 et seq. (or successor
2 provision or provisions), or whose certificate is not in good standing.

3 5. If there have been repeated alleged violations of the terms and
4 conditions of a Massage Establishment Permit or the provisions of this Chapter (or
5 successor provision or provisions), which require ongoing supervision, action, or
6 response by City and County officials, including but not limited to the City's Police
7 Department, which demonstrate that Permittee is unable to operate or manage the
8 Massage Establishment in a law-abiding manner.

9 C. If the Permit Administrator determines and concludes that a holder of a
10 City-issued Massage Establishment Permit has violated any conditions of its permit,
11 failed to adhere to or fulfill any requirement of this Chapter, failed to meet any of the
12 original grounds for approval, or violated any provision of this Chapter or condition of
13 permit to provide grounds to not renew a permit, or to suspend or revoke a permit,
14 the Permit Administrator shall revoke, suspend or not renew said permit by dated
15 written notice to the Permittee.

16 D. The Permit Administrator shall serve the Permittee, either personally or by
17 first class mail addressed to the address listed on the application, with a written
18 notice of nonrenewal, or a notice to suspend or revoke a permit. This notice shall
19 state the reasons for the action, the effective date of the decision, the right of the
20 Permittee to appeal the decision to the City Manager, and that the Permit
21 Administrator's decision will be final if no written appeal is timely submitted to, and
22 received by, the City, pursuant to the provisions in Section 11.07.100 of this
23 Chapter. This notice will be effective within fifteen (15) calendar days from the date
24 of service of the notice. If an appeal is timely and properly filed in accordance with
25 Section 11.07.100, then the effective date of the notice is stayed.
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1 **§ 11.07.100 APPEAL.**

2 **A. Notice of, and Time to, Appeal, and Effect of Timely Appeal.**

3 1. An Applicant or Permittee of a Massage Establishment may appeal the
4 decision of the Permit Administrator to the City Manager, by filing with the City Clerk
5 a written notice of appeal within fifteen (15) calendar days from the date of service
6 of the notice issued by the Permit Administrator of his or her decision.

7 2. The notice of appeal shall be in writing and signed by the person
8 making the appeal ("appellant"), or his or her legal representative, and shall contain
9 the following:

10 (a) Name, address, and telephone number of the appellant, as well as
11 indication of whether the appellant is the Applicant or Permittee of a Massage
12 Establishment with a City-issued Massage Establishment Permit.

13 (b) Specify that the person is appealing from a specified decision,
14 action, or a particular part thereof, made by the Permit Administrator.

15 (c) Include a true and correct copy of the notice of decision issued by
16 the Permit Administrator for which the appellant is appealing.

17 (d) State with specificity the reasons and grounds for making the
18 appeal, including, but not limited to, a statement of facts upon which the appeal is
19 based in sufficient detail to enable the City Manager, or any appointed hearing
20 officer, to understand the nature of the controversy, the basis of the appeal, and the
21 relief requested.

22 (e) All documents or other evidence pertinent to the appeal that the
23 appellant requests the City Manager to consider at the hearing.

24 3. Failure of the City Clerk to receive a timely appeal constitutes a waiver
25 of the right to appeal the notice issued by the Permit Administrator. In this event, the
26 Permit Administrator's notice of decision, determination and/or action is final and
27 binding.

28 4. In the event a written notice of appeal is timely filed, the nonrenewal,

1 suspension or revocation shall not become effective until a Final Order has been
2 rendered and issued by the City Manager, or appointed hearing officer. If no appeal
3 is timely filed in the event of a decision of nonrenewal, the Massage Establishment
4 Permit shall expire at the conclusion of the term of the permit. If no appeal is timely
5 filed in the event of a decision of suspension or revocation, the suspension or
6 revocation shall become effective upon the expiration of the period for filing a written
7 notice of appeal.

8 **B. Review by City Manager; Appeal Hearing and Proceedings.**

9 1. All appellants shall, subject to filing a timely written notice of appeal,
10 obtain review thereof before the City Manager or appointed hearing officer. The
11 administrative appeal shall be scheduled no later than sixty (60) calendar days, and
12 no sooner than ten (10) calendar days, after receipt of a timely filed notice of appeal.
13 The appellant(s) listed on the written notice of appeal shall be notified in writing of
14 the date, time, and location of the hearing at least ten (10) calendar days before the
15 date of the hearing ("notice of appeal hearing").

16 2. All requests by an appellant to continue a hearing must be submitted
17 to the City Clerk in writing no later than three (3) business days before the date
18 scheduled for the hearing. The City Manager may continue a hearing for good cause
19 or on his or her own motion; however, in no event may the hearing be continued for
20 more than thirty (30) calendar days without stipulation by all parties.

21 3. The City Manager shall preside over the hearing on appeal, or in the
22 alternative, the City Manager may appoint a hearing officer to conduct the hearing.

23 4. At the date, time and location set forth in the notice of appeal hearing,
24 the City Manager or an appointed hearing officer, shall hear and consider the
25 testimony of the appellant(s), the Permit Administrator, and/or their witnesses, as
26 well as any documentary evidence properly submitted by these persons.

27 5. The following rules shall apply at the appeal hearing:

28 (a) Appeal hearings are informal, and formal rules of evidence and

1 discovery do not apply. However, rules of privilege shall be applicable to the extent
2 they are permitted by law, and irrelevant, collateral, undue, and repetitious testimony
3 may be excluded.

4 (b) The City bears the burden of proof to establish the grounds for
5 denial, nonrenewal, suspension or revocation by a preponderance of evidence.

6 (c) The issuance of the Permit Administrator's notice of decision
7 constitutes prima facie evidence of grounds for the denial, nonrenewal, suspension
8 or revocation, and City or County personnel who significantly took part in the
9 investigation, which contributed to the Permit Administrator issuing a notice of
10 decision, may be required to participate in the appeal hearing.

11 (d) Each party shall have the right to introduce evidence, to present
12 and examine witnesses, and to cross-examine opposing witnesses who have
13 testified under direct examination. The City Manager, or the appointed hearing
14 officer, may also call witnesses, and examine any person who introduces evidence
15 or testifies at any hearing.

16 (e) The City Manager, or the appointed hearing officer, may accept
17 and consider late evidence not submitted initially with the notice of appeal upon a
18 showing by the appellant of good cause. The hearing officer shall determine in his or
19 her discretion whether a particular fact or facts amount to a good cause on a case-
20 by-case basis.

21 (f) The appellant and the Permit Administrator issuing the notice, may
22 represent himself, herself or themselves, or be represented by a legal representative
23 of his, her, or their choice.

24 (g) The appellant may bring a language interpreter to the hearing at his
25 or her sole expense.

26 (h) The City may, at its discretion, record the hearing by stenographer
27 or court reporter, audio recording, or video recording.

28 6. If the appellant, or his or her legal representative, fails to appear at the

1 appeal hearing, the City Manager, or the appointed hearing officer, shall cancel the
2 appeal hearing and send a notice thereof to the appellant by first class mail to the
3 address(es) stated on the notice of appeal. A cancellation of a hearing due to non-
4 appearance of the appellant shall constitute the appellant's waiver of the right to
5 appeal and a failure to exhaust all administrative remedies. In such instances, the
6 Permit Administrator's notice of decision is final and binding.

7 **C. Decision of City Manager, or His or Her Designee, or Appointed**
8 **Hearing Officer; Final Order.**

9 1. Not later than fifteen (15) calendar days following conclusion of the
10 appeal hearing, the City Manager, or appointed hearing officer, shall determine if
11 any ground exists for the denial, nonrenewal, suspension or revocation of a
12 Massage Establishment Permit. If the City Manager, or appointed hearing officer,
13 determines that no grounds for denial, nonrenewal, suspension or revocation exist,
14 the Permit Administrator's notice of decision shall be deemed cancelled. If the City
15 Manager, or appointed hearing officer, determines that one or more of the reasons
16 or grounds enumerated in the Permit Administrator's notice of decision exists, he or
17 she shall issue a written Final Order, which shall at minimum contain the following:

18 (a) A finding and description of each reason or grounds for denial,
19 nonrenewal, suspension or revocation that exist.

20 (b) Any other finding, determination or requirement that is relevant or
21 related to the subject matter of the appeal.

22 2. The decision of the City Manager, or appointed hearing officer, is final
23 and conclusive. The decision shall also contain the following statement: "The
24 decision of the City Manager, or appointed hearing officer, is final and binding.
25 Judicial review of this decision is subject to the time limits set forth in California
26 Code of Civil Procedure Section 1094.6."

27 3. A copy of the Final Order shall be served by first class mail on the
28 appellant. If the appellant is not the owner of the real property in which the

1 Message Establishment is located, or proposed to be located, a copy of the Final
2 Order may also be served on the property owner by first class mail to the address
3 shown on the last equalized assessment roll. Failure of a person to receive a
4 properly addressed Final Order shall not invalidate any action or proceeding by the
5 City pursuant to this Chapter.

6
7 **§ 11.07.105 PROHIBITION FROM REAPPLYING FOR A MASSAGE**
8 **ESTABLISHMENT PERMIT.**

9 If the issuance of a permit is denied, or a current and valid City issued Massage
10 Establishment Permit is suspended, revoked, or not renewed for failure to comply
11 with the conditions of a permit or the provisions of this Chapter, the Applicant or
12 former Permittee may not reapply for a period of twenty-four (24) months from the
13 date the application was denied, or the date the City issued Massage Establishment
14 Permit was suspended, revoked, or not renewed, or from the date of the Final Order
15 that was issued after an appeal hearing.

16
17 **§ 11.07.110 SURRENDER OF MASSAGE ESTABLISHMENT PERMIT.**

18 Any Permittee to whom a permit has been issued pursuant to this Chapter shall
19 immediately surrender his or her permit to the Permit Administrator upon its
20 nonrenewal, suspension, or revocation.

21 A permit is not valid beyond the effective date of the suspension or revocation,
22 whether surrendered or not.

23 **§ 11.07.115 APPLICABILITY TO EXISTING MASSAGE ESTABLISHMENTS.**

24 A. Commencing on the effective date of the ordinance as codified in this
25 Chapter, all operating permits for a Massage Establishment shall be issued in
26 accordance with the provisions of this Chapter.

1 B. The provisions of this Chapter shall be applicable to all persons and
2 businesses described herein whether the described persons, businesses or
3 activities were established before or after the effective date of this Chapter, except
4 that Massage Establishments lawfully in business before the effective date hereof
5 shall have ninety (90) calendar days to submit the necessary application(s) to
6 secure an Massage Establishment Permit as described herein and comply with the
7 terms of this Chapter.

8 C. Upon request in writing submitted concurrently with an initial application
9 under Section 11.07.030, and for good cause shown, the Permit Administrator is
10 authorized to waive the architectural, structural, or building requirements of Section
11 11.07.065(B)(3)–(5) for an establishment operating at the time of the effective date
12 of this Chapter. Any such waiver shall be attached to or upon each Massage
13 Establishment Permit. Nothing in this Section waives any Planning, Fire Code or
14 Building Safety requirements that are generally applicable under the Culver City
15 Municipal Code.

16 D. Provided any existing Massage Establishment undergoes a change in
17 ownership, or causes, allows, or permits alterations to, and/or extensions or
18 expansions of, the existing building(s), structure(s), or portions thereof, then the
19 Massage Establishment must comply with all applicable laws, regulations and
20 standards, including those required by this Chapter.

21 **§ 11.07.120 FEES.**

22 The City Council shall establish by resolution, and from time to time may amend,
23 the fees for the administration of this Chapter, including but not limited to, original
24 application, renewal application, and inspection fees. Fees required by this Chapter
25 shall be in addition to any other fees that may be required under any other section,
26 provision, or chapter of this Code.

1 **§ 11.07.125 VIOLATIONS AND PENALTY.**

2 A. Any person who violates any provision of this Chapter is guilty of a
3 misdemeanor.

4 B. It is unlawful for any Permittee of a Massage Establishment, or its
5 Responsible Person, Manager or any other responsible person employed by or
6 working in concert with them or on their behalf, whether directly or indirectly, to
7 continue to operate, conduct, or maintain a Massage Establishment after the City-
8 issued Massage Establishment Permit has been suspended or revoked, or not
9 renewed, pursuant to a non-contested notice of decision issued by the Permit
10 Administrator, or after the issuance of a Final Order after an appeal hearing.

11 C. Any Massage Establishment operated, conducted, or maintained contrary
12 to the provisions of this Chapter shall be, and the same is declared to be, unlawful
13 and a public nuisance, and the City may, in addition to or in lieu of prosecuting a
14 criminal action, commence an administrative or civil action(s) or proceeding(s), for
15 the abatement, removal and enjoinder thereof, in the manner provided by law, and
16 shall take such other steps and shall apply to such court or courts as may have
17 jurisdiction to grant such relief to abate or remove such Massage Establishment s
18 and restrain and enjoin any person from operating, conducting or maintaining a
19 Massage Establishment contrary to the provisions of this Chapter.

20 D. Each person shall be guilty of a separate offense for each and every day,
21 or part thereof, during which a violation of this Chapter, or of any law or regulation
22 referenced herein, is allowed, committed, continued, maintained or permitted by
23 such person, and shall be punishable accordingly.

24 E. Whenever in this Chapter any act or omission is made unlawful, it shall
25 include causing, permitting, aiding, abetting, suffering, or concealing the fact of such
26 act or omission.

27 F. The penalties set forth herein are cumulative and in addition to all other
28 remedies, violations, and penalties set forth in this Chapter, the City's Code, or in

1 any other ordinance, laws, rules or regulations of the City, County, or the State of
2 California.

3
4 **§ 11.07.130 EFFECT ON OTHER ORDINANCES.**

5 Except as designated in this Chapter, the provisions of this Chapter shall control
6 for regulation of Massage Establishments as defined herein if other provisions of the
7 Code conflict therewith. This Chapter shall not, however, relieve any person of his
8 or her duty to comply with such laws if additional obligations, duties, or prohibitions
9 are imposed thereby.

10
11 **SECTION 3.** City of Culver City Municipal Code Section 11.01.305
12 (“Schedule of Businesses Requiring Certificate of Compliance or Permit”) of Chapter
13 11.01 (“General Licensing”) of Title 11 (“Business Regulations”) is amended by
14 deleting “, including massage establishments” from the type of businesses that
15 require a permit from the Committee on Permits and License, and adding massage
16 establishments as a separate category, to read as follows:

17 Health clubs, spas or other similar types CPL
18 of establishments (excluding massage establishments)

19 ...


20 Massage establishments (including health clubs, spas or See Chapter 11.07
21 other similar types of establishments that offer massage services)

22 **SECTION 4:** Nothing in this Ordinance shall be construed to affect any suit
23 or proceeding impending in any court, or any rights acquired, or liability incurred, or
24 any cause or causes of action acquired or existing, under any act or Ordinance
25 hereby repealed as cited in Section 1 of this Ordinance; nor shall any just or legal
26 right or remedy of any character be lost, impaired or affected by this Ordinance.
27
28

SECTION 6: City Council hereby declares that, if any provision, section, subsection, paragraph, sentence, phrase or word of this Ordinance is rendered or declared invalid or unconstitutional by any final action in a court of competent jurisdiction or by reason or any preemptive legislation, then the City Council would have independently adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases, or words of this Ordinance, and as such they shall remain in full force and effect.

JIM B. CLARKE, MAYOR
City of Culver City, California

JEREMY GREEN
Deputy City Clerk


CAROL A. SCHWAB
City Attorney