

ORDINANCE NO. 2016-____

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 MASSAGE BUSINESS REGULATIONS; (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; AND (3) TERMINATING THE TEMPORARY MORATORIUM, ESTABLISHED BY ORDINANCE NO 2015-001 AND EXTENDED BY ORDINANCE NOS. 2015-002 AND 2016-004, ON THE ISSUANCE OF ANY NEW PERMIT, LICENSE, APPROVAL OR ENTITLEMENT PERTAINING TO NEW MASSAGE ESTABLISHMENTS OR THE LOCATION OR RELOCATION OF EXISTING MASSAGE ESTABLISHMENTS WITHIN THE CITY.

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Culver City Municipal Code (CCMC) Chapter 11.07 ("Massage Businesses") of Title 11 ("Business Regulations") is hereby repealed in its entirety.

SECTION 2: Chapter 11.07 of the Culver City Municipal Code, having been repealed in Section 1 above, is hereby replaced as follows: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

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2 **CHAPTER 11.07 MASSAGE ESTABLISHMENTS**

3 **§ 11.07.005 FINDINGS AND PURPOSE.**

4 The City Council finds and declares as follows:

5 A. The City is authorized, by virtue of the Constitution of the State of
6 California, California Government Code Section 51030 *et seq.*, and Business and
7 Professions Code Section 4600 *et seq.*, to regulate massage establishments by
8 imposing reasonable standards for, and conditions on, the lawful operation of
9 massage establishments.

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

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

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

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

24 **§ 11.07.010 DEFINITIONS.**

25 For the purpose of this Chapter, the following definitions shall apply:
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1 **APPLICANT.** Applicant shall include any individual or entity applying for a
2 permit under this Chapter, including any officer, director, partner, or other duly
3 authorized representative applying on behalf of an entity.

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

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

9 **CITY MANAGER.** City Manager of the City of Culver City, or his or her
10 designee.

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

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

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

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

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

1 **MASSAGE.** Any method of manipulating the soft tissues of the human body
2 for remedial, health, hygienic, relaxation or any other reason or purposes, whether
3 by means of pressure, acupressure on or friction against, or stroking, kneading,
4 rubbing, tapping, pounding, vibrating, stimulating, or any other manner of touching
5 the external parts of the human body with the hands, or with or without the aid of
6 any mechanical or electrical apparatus or appliances, or with or without
7 supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders,
8 creams, lotions, ointments, or other similar preparations commonly used in this
9 practice, type of business or trade. **MASSAGE TREATMENT, MASSAGE**
10 **SERVICE, and MASSAGE ACTIVITY** are included within this definition for
11 purposes of this Chapter.

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

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

25 **MASSAGE ESTABLISHMENT PERMIT.** The permit issued pursuant to the
26 provisions of this Chapter required to operate or manage a Massage Establishment.
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1 **MASSAGE ROOM.** A cubicle, booth, room, or enclosed or semi-enclosed
2 area within a Massage Establishment where massage services are performed on
3 patrons.

4 **MASSAGE TECHNICIAN.** Any person who administers to another person a
5 massage as defined herein, within a Massage Establishment or off-premises, for
6 any form of consideration or in exchange for anything of value whatsoever. The
7 terms **MASSAGE THERAPIST, MASSAGE PRACTITIONER, MASSAGE**
8 **TRAINEE, MASSEUR, or MASSEUSE** are included within this definition for
9 purposes of this Chapter.

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

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

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

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

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

23 **RESPONSIBLE PERSON.** All owners of the Massage Establishment,
24 including all officers, directors, managers, partners and all other persons with
25 authority, including apparent authority, over the premises of the Massage
26 Establishment.
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1 **SPECIFIED ANATOMICAL AREAS.** Any of the following human anatomical
2 areas: genitals, pubic regions, anuses, and female breasts below a point
3 immediately above the top of the areola.

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5 **§ 11.07.015 MESSAGE ESTABLISHMENT PERMIT REQUIRED.**

6 Except as otherwise provided herein, it shall be unlawful for any person to
7 engage in, conduct or carry on, or to cause, allow, or permit, the engagement in,
8 conduct of or carrying on the business or operation of a Massage Establishment
9 within the City without first obtaining a current and valid Massage Establishment
10 Permit pursuant to the provisions of this Chapter, and complying with all other
11 applicable provisions of this Code, including but not limited to, securing the
12 necessary Business Tax Certificate as required by Chapter 11.01 of this Code.

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14 **§ 11.07.020 CAMTC MESSAGE CERTIFICATE REQUIRED.**

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

20 B. All persons who have been issued a current and valid Massage Certificate
21 and who provide a massage to the public in the City for any form of compensation,
22 and who are not employed by, or affiliated with, a Massage Establishment but
23 provide off-premises massage services, as defined in this Chapter, shall also apply
24 for and obtain a current and valid Business Tax Certificate as required by Chapter
25 11.01 of this Code.

26 **§ 11.07.025 EXEMPTIONS.**

27 The requirement to have a current and valid Massage Establishment Permit or a
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1 Massage Certificate shall not apply to the following classes of individuals, and no
2 Massage Establishment Permit or Massage Certificate shall be required of such
3 persons, while engaged in the performance of the duties of their respective
4 professions:

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

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

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

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

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

23 F. Acupuncturists who are duly certified to practice their profession in the
24 State of California. This exemption herein only applies if the massage therapy is
25 performed by the licensed acupuncturist professional to the treated portion of the
26 patient's body. If a duly licensed acupuncturist wishes to provide massage therapy
27 by another individual(s), said individual(s) must obtain and possess a current and
28 valid Massage Certificate and the acupuncturist office must obtain a Massage

1 Establishment Permit form the City of Culver City in compliance with all codes and
2 the California Acupuncture Board.

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

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6 **§ 11.07.030 MESSAGE ESTABLISHMENT PERMIT – APPLICATION.**

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

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

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

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

25 E. The application for a Massage Establishment Permit shall contain or be
26 accompanied by the following information for the Applicant and for each
27 Responsible Person whenever required of the Applicant:
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1 1. The type of ownership of the business (i.e., individual, partnership,
2 corporation, limited liability company or otherwise):

3 (a) If the Applicant is not a natural person, the name of the entity shall
4 be set forth exactly as shown in its operative governing documents, including any
5 partnership agreement, limited partnership agreements, articles of incorporation,
6 limited liability company statement, and as reflected in any filing or recording with a
7 public agency, including the California Secretary of State and the county recorder's
8 office, including any fictitious business statement, together with the state and the
9 date of formation or registration, and the legal names and residence addresses of
10 each of its officers, directors, members, partners, principals, and each shareholder
11 or interest holder holding more than five percent (5%) of the stock of the Applicant.
12 A copy of the certificate, registration or other official form issued by the governing
13 agency shall be provided with the application.

14 (b) An Applicant shall designate one of its owners, officers, directors,
15 managers or general partners to act as its designated authorized officer. Such
16 person shall complete and sign all application forms required for an Applicant under
17 this Code, but only one application fee shall be charged. No change of a designated
18 authorized officer shall be effective until and unless a change application is filed with
19 the City to change the authorized officer and is approved by the Permit
20 Administrator, but no additional inspection shall be necessary. The designated
21 authorized officer must at all times meet all of the requirements established by this
22 Chapter. A permit may be suspended by the Permit Administrator immediately in
23 the event that the designated authorized officer is not in compliance with all
24 requirements of this Chapter. The suspension shall continue until the authorized
25 officer is in compliance, as confirmed in writing by the Permit Administrator, or a new
26 authorized officer is designated and approved by the City. If no such approval is
27 issued within ninety (90) days of the suspension, the permit is deemed canceled,
28 unless extended by the Permit Administrator in writing, at the Permit Administrator's

1 discretion. A new initial application for permit must be filed, together with the
2 payment of fees applicable thereto, and a permit issued before the Massage
3 Establishment may commence operating.

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

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

8 4. The proposed hours of operation.

9 5. A complete current list of the names and residence addresses of all
10 proposed Massage Technicians, aides, trainees, independent contractors, and other
11 Employees who are or will be employed in the Massage Establishment, if known. If
12 not known at the time of submission of the application, the Applicant shall provide
13 the required information no later than ten (10) calendar days prior to opening for
14 business. True and correct copies of Massage Certificates for each proposed
15 Massage Technician shall be submitted with the application.

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

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

21 8. The name and address of the owners and lessors of the real property
22 where the proposed Massage Establishment is to be conducted. In the event the
23 Applicant is not the legal owner of the property, the application must be
24 accompanied by a copy of the lease and a notarized affidavit from the owner of the
25 property acknowledging that a Massage Establishment may be located at the
26 designated premises.

27 9. The complete business, occupation and employment history for eight
28 (8) years preceding the date of the submittal of application for the Applicant,

1 Responsible Persons and Managers, including, but not limited to, a Massage
2 Establishment or similar type of business history and experience of the Applicant,
3 Responsible Persons and Managers to operate such a business.

4 10. The complete massage permit history for the Applicant, Responsible
5 Persons and Managers; whether such person(s) have ever had any similar type of
6 permit or license issued by any agency, board, city, county, territory or state; the
7 date of issuance of such a permit or license, whether the permit or license has been
8 or was ever denied, revoked or suspended; if a vocational or professional license or
9 permit has been or was ever denied, revoked or suspended; if the Applicant,
10 Responsible Persons or Managers has ever been required to surrender a permit or
11 license as a result of pending criminal charges or in lieu of said permit or license
12 being suspended or revoked and the reason thereof.

13 11. All criminal convictions of the Applicant, Responsible Persons or
14 Managers, including pleas of nolo contendere, within the last ten (10) years
15 including those convictions dismissed or expunged pursuant to Penal Code Section
16 1203.4, but excluding minor traffic violations, and the date and place of each such
17 conviction.

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

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

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

25 15. Such other identification and information as the City may reasonably
26 require in order to verify the truth of the matters herein specified and as required to
27 be set forth in the application.
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1 16. A statement in writing and dated and signed by the person providing
2 the information that he or she certifies under penalty of perjury that all information
3 contained in the application is true and correct.

4 17. A written approval, or certificate of occupancy, from any division,
5 department or agency with authority or jurisdiction over the real property, and
6 building(s) or structure(s) thereon, in which the Massage Establishment is to be
7 located, including but not limited to, from the City's Planning and Building Safety
8 Divisions, as well as the City's Fire Department. The approval, or certificate of
9 occupancy, must be submitted to the City prior to the application for permit final
10 approval. Any required inspection fees shall be the sole responsibility of the
11 Applicant. If the approvals or certificate of occupancy are not received by the City,
12 within ninety (90) calendar days of filing the application, said application shall be
13 deemed void.

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

- 16 1. Full, true name, and all aliases used.
- 17 2. Date and place of birth.
- 18 3. California driver's license, California identification card, or any other
19 government issued identification card verifying the name and date of birth, as well
20 as physical identifying information that includes information such as height, weight,
21 gender, and color of hair and eyes.
- 22 4. The current residence address residence telephone number, and all
23 previous residential addresses for a minimum of eight (8) years immediately
24 preceding the present address of the Applicant, Responsible Person and Managers
25 and the dates of residence for each address.

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

27 G. If, during the term of a permit, the Permittee proposes any change in
28 information submitted on the original or renewal application, the Permittee shall

1 notify the City in writing of any such proposed change, and same must be approved
2 by the Permit Administrator before the change takes place.

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

6 I. At the discretion of the City, an Applicant may be required to notify any
7 residences within 300 feet of the proposed Massage Establishment by first class
8 mail, at Applicant's expense, so that residents may submit comments to the City.
9 The form and format of the notice will be provided to the Applicant by the City.

10 11 **§ 11.07.035 REVIEW OF APPLICATION AND INVESTIGATION.**

12 Upon receipt of a complete and signed written application for a Massage
13 Establishment Permit, the City shall conduct an investigation of facts with the
14 appropriate City and County agencies. This review process shall ensure that the
15 contents and information on each Massage Establishment Permit application are
16 consistent with the intent and purpose of this Chapter. Within ninety (90) calendar
17 days of receipt of a completed application and all required documentation and
18 approvals, the City shall approve, conditionally approve, or deny the application.
19 The ninety (90) days period may be extended for up to thirty (30) additional days, if
20 necessary, to complete the investigation.

21 22 **§ 11.07.040 MESSAGE ESTABLISHMENT PERMIT – GROUNDS FOR** 23 **ISSUANCE OR DENIAL; NOTICE OF DENIAL; RIGHT TO APPEAL.**

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

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

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

8 a. Has been convicted of any crime involving dishonesty, fraud,
9 deceit, or moral turpitude, or any crime committed while engaged in the ownership
10 or management of a Massage Establishment or the practice of massage.

11 b. Has been convicted of a violation of any criminal law relating to the
12 pandering, prostitution, or human trafficking, including without limitation California
13 Penal Code sections 266h, 266i, 315, 316, 318, 647, or any similar law.

14 c. Has been convicted of any felony offense involving the illegal sale,
15 distribution, or possession of a controlled substance.

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

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

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

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

27 B. If the Permit Administrator, upon completion of the investigation
28 determines that the Applicant does not fulfill the requirements as set forth in this

1 Chapter, the City shall deny said application and not issue a permit by dated written
2 notice to the Applicant. The City shall serve the Applicant, either personally or by
3 first class mail addressed to the address listed on the application, with a written
4 notice of denial. Said notice shall state the reasons for the denial and the right of
5 the Applicant to appeal the decision to the City Manager, and that the Permit
6 Administrator's decision will be final if no written appeal is timely submitted to and
7 received by the City, pursuant to the provisions in Section 11.07.100 of this Chapter.

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9 **§ 11.07.045 SERVICE OF ANY CITY NOTICE, AND DATE OF SERVICE.**

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

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

19 **§ 11.07.050 TERM OF MASSAGE ESTABLISHMENT PERMIT.**

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

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

1 C. Every Massage Establishment Permit first issued on or before October
2 1 of each year shall expire on December 31 of the following calendar year, unless
3 sooner suspended, revoked, or abandoned as set forth in this Chapter.

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5 **§ 11.07.055 ISSUANCE OF PERMIT.**

6 No permit issued under this Chapter shall confer any right to operate or conduct
7 any business in the City to any person for a period exceeding the term of the permit.

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10 **§11.07.060 MASSAGE ESTABLISHMENT PERMIT – NONASSIGNABLE AND**
11 **NONTRANSFERABLE.**

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

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

20
21 **§ 11.07.065 OPERATING REQUIREMENTS – GENERAL CONDITIONS,**
22 **FACILITIES AND MASSAGE ESTABLISHMENTS.**

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

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

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

8 3. *Manager on the Premises at All Times.* All Massage Establishments
9 required to have a permit under this Chapter shall have a Manager on the premises
10 at all times when the Massage Establishment is open for business. The Permittee
11 as represented in the approved application for a Massage Establishment Permit
12 shall be deemed a Manager for the purposes of this Section. Any additional
13 Managers must submit to the City all required information under Section 11.07.030
14 of this Chapter, and must be approved by the Permit Administrator, before serving
15 as a Manager. Said amended or supplemental information to the approved
16 application shall be accompanied by a fee to cover the reasonable costs associated
17 with this investigation.

18 4. *Permit and Massage Certificates Displayed.* The Massage
19 Establishment Permit and the Massage Certificate for each Massage Technician
20 shall be displayed in an open and conspicuous place readily visible, such as in the
21 lobby of the Massage Establishment.

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

25 6. *At Least One Certified Massage Technician on the Premises at All*
26 *Times.* No Massage Establishment required to be permitted under this Chapter shall
27 open for business without having at least one Massage Technician who holds a
28 current and valid Massage Certificate for that specific Massage Establishment.

1 There shall be at least one (1) Massage Technician who holds a current and valid
2 Massage Certificate on the premises at all times when the establishment is open.

3 7. *Permittee Responsibility.* All Permittees and all of their Responsible
4 Persons and Managers shall be responsible for the conduct of all Employees or
5 independent contractors while they are on the Massage Establishment premises.
6 Any act or omission of any Employee or independent contractor constituting a
7 violation of the provisions of this Chapter shall be deemed the act or omission of the
8 Permittee for purposes of determining whether the permit shall be revoked,
9 suspended, or not renewed.

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

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

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

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

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

24 10. *Register of Personnel:* The Permittee shall maintain a register listing
25 all Massage Technicians, including Employees and independent contractors. Said
26 register shall be maintained on the premises for a minimum period of two (2) years
27 after Massage Technicians cease their employment. The Permittee shall make the
28 personnel register immediately available for inspection upon demand of a

1 representative of the City at all reasonable times. The personnel register shall
2 include, but not limited to, the following information:

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

5 (b) Any nicknames, pseudonyms, or aliases used by the Massage
6 Technician.

7 (c) The Massage Technician's current residence address and relevant
8 phone numbers (including, but not limited to, home and cellular numbers).

9 (d) The age, date of birth, gender, height, weight, color of hair and
10 eyes of each Massage Technician.

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

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

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

15 (h) The duties of each Massage Technician.

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

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

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

27 2. *Treatment or Services List.* The Permittee shall post and maintain a
28 list of treatments or services available and the cost of such treatments or services in

1 an open and conspicuous place of the Massage Establishment and in any other
2 location on the premises as the Permittee deems appropriate. No Permittee shall
3 allow, cause, or permit, and no Massage Technician shall offer or perform, any
4 treatment or service other than those posted.

5 3. *Ventilation and Lighting.* Minimum ventilation and lighting shall be
6 provided in accordance with the City's Building Code and other adopted California
7 codes pertaining to structures or construction. Minimum lighting must be provided in
8 accordance with the City's Building Code, and, in addition, at least one unobstructed
9 artificial light of not less than 900 lumens must be provided in each enclosed room
10 or booth where massage services are being performed on a patron.

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

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

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

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

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

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

15 **C. Operations of Massage Establishments.** Permittees, their Responsible
16 Persons, Managers and all those performing services at the Massage Establishment
17 who have a Massage Certificate, shall comply with the following Massage
18 Establishment operating requirements, and any other conditions specified by the
19 City.

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

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

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

6 4. *Alcohol or drugs prohibited.* No person shall enter, be in, or remain in
7 or on, any part of a Massage Establishment while in the possession of, consuming,
8 or using or under the influence of, any alcoholic beverage or controlled substance.
9 Permittees, Responsible Persons and Managers shall each be responsible to
10 ensure that no such person shall enter or remain upon the premises of the Massage
11 Establishment. Service of alcoholic beverages is prohibited on the premises.

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

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

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

25 8. *Maintaining Treatment and Service Records.* The Permittee shall
26 cause a record to be maintained of the dates and hours of each treatment or
27 service, the name and address or other contact information for the patron, the name
28 of the Massage Technician administering such treatment or service, and a

1 description, or the type, of treatment or service administered. These records shall be
2 prepared prior to administering any massage, service or treatment, and shall be
3 retained for a period of one (1) year after such treatment or service. There records
4 shall be open to inspection upon demand only by officials charged with enforcement
5 of this Chapter or emergency personnel for emergency purposes, and for no other
6 purpose. City and County officials as designated in this Chapter may routinely and
7 periodically inspect the records to ensure compliance with this section. The
8 information furnished or secured as a result of any such records shall be used only
9 to ensure and enforce compliance with this Chapter, or any other applicable local,
10 state or federal laws, and shall remain confidential. Any unauthorized disclosure or
11 use of such information by the Permittee, Responsible Person, Manager, Employee,
12 or independent contractor of the Massage Establishment shall constitute a
13 misdemeanor.

14 9. *Hours of Operation:* Massage operations shall be carried on or
15 conducted, and the premises shall be open, only between the hours of eight (8:00)
16 a.m. and ten (10:00) p.m. The Applicant must advise the City, in writing, at the time
17 of submission of the application for a Massage Establishment Permit, of the hours of
18 operation within the times set forth above. The Permittee shall notify the City, in
19 writing, at least thirty (30) calendar days before the date of the effective change, of
20 any changes in the hours of operation. No person shall operate a Massage
21 Establishment or administer a massage in any Massage Establishment or
22 administer an off-premises massage between the hours of ten (10:00) p.m. and
23 eight (8) a.m. All customers, clients, patrons, and visitors shall be excluded from the
24 Massage Establishment during these hours and be advised of these hours. Any
25 massage beginning at any time before ten (10:00) p.m. must terminate at ten
26 (10:00) p.m.
27
28

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

11. *Doors.* All exterior doors (except back or rear exterior doors used only for Employee entrance to and exit from the Massage Establishment) shall remain unlocked during business hours, unless the Massage Establishment is a sole proprietor with no employees (including independent contractors). All interior doors (other than bathroom doors), including, but not limited to, all doors leading to customer areas, the front reception, hallway or front exterior doors, shall not have any locking mechanisms. A door leading from the lobby areas to customer areas, if any, shall not have any locking mechanism or be capable of being locked or blocked to prevent entry, in any manner.

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

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

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

NOTICE TO ALL PATRONS

1 THIS MESSAGE ESTABLISHMENT AND THE MESSAGE ROOMS
2 ARE NOT LOCKED FOR YOUR SAFETY AND PROTECTION. THIS
3 ESTABLISHMENT IS SUBJECT TO INSPECTION BY CITY OF
4 CULVER CITY OFFICIALS, INCLUDING THE CULVER CITY POLICE
DEPARTMENT, AS WELL AS COUNTY HEALTH OFFICIALS,
WITHOUT PRIOR NOTICE.

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

8
9 **§ 11.07.070 MESSAGE TECHNICIANS AND PRACTICE – GENERAL**
10 **CONDITIONS.**

11 All Massage Technicians shall comply with the following conditions:

12 A. No Massage Technician shall massage or cause, allow, or permit an
13 Employee to massage any specified anatomical areas, as defined in this Chapter, of
14 any patron. Nor shall any Massage Technician or Employee solicit or cause, allow,
15 or permit a patron to touch or massage in any manner the specified anatomical area
16 of a Massage Technician or Employee. No massage shall be given and no patron
17 shall be in the presence of any other person unless the patron's specified
18 anatomical areas are fully covered by a nontransparent covering or draping.

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

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

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

6 E. A Massage Technician shall consent to, and shall not prevent, delay or
7 interfere with a lawful inspection of the Massage Establishment, or occupied
8 massage rooms, by the City's Divisions of Enforcement Services, Planning, Building
9 Safety, as well as the Fire Department, Police Department, Finance Department,
10 and the Los Angeles County Health Department, and any other City or County
11 division or department that has regulatory jurisdiction over the Massage
12 Establishment, or its Massage Technicians, Employees, or practices and activities
13 thereon, for the purpose of determining that the provisions of this Chapter or other
14 applicable laws, regulations, or standards are complied with and met.

15 **§ 11.07.075 INSPECTIONS OF MASSAGE ESTABLISHMENTS AND ITS**
16 **RECORDS.**

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

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

6 C. Inspections of the Massage Establishment shall be conducted during
7 business hours.

8
9 **§ 11.07.080 MASSAGE ESTABLISHMENT PERMIT – CHANGE IN OWNERSHIP**
10 **WHEN THE PERMITTEE IS A PARTNERSHIP OR CORPORATION.**

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

22 B. If the Massage Establishment Permit is issued to a corporation, stock may
23 be sold, transferred, issued, or assigned to stockholders who have been named on
24 the application. If any stock is sold, transferred, issued, or assigned to a person not
25 listed on the application as a stockholder, the permit shall be deemed terminated
26 and void; provided, however, the proposed transferee may submit to the Permit
27 Administrator, together with the fee established by the City Council, an application to
28

1 amend the original application providing all information as required for stockholders
2 in the first instance, and, upon approval thereof, the transfer may then occur.

3 C. All changes in ownership as described in this section must be submitted
4 to the City within thirty (30) calendar days, along with any organizational documents
5 reflecting said changes.

6
7 **§ 11.07.085 MESSAGE ESTABLISHMENT PERMIT – CHANGE OF NAME, OR**
8 **ALTERATIONS TO APPROVED FACILITY.**

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

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

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

23 **§ 11.07.090 RENEWAL OF MESSAGE ESTABLISHMENT PERMIT.**

24 A. Applications for the renewal of a Massage Establishment Permit shall be
25 filed with the Permit Administrator at least sixty (60) calendar days before the
26 expiration of the permit to be renewed. Temporary permits will not be issued. Any
27
28

1 Permittee allowing his or her permit to lapse or expire shall be required to submit a
2 new application and pay the corresponding original application fees.

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

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

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

19 **§ 11.07.095 GROUNDS FOR SUSPENSION, REVOCATION, NONRENEWAL,**
20 **OR DENIAL; NOTICE OF CITY DECISION; AND APPEAL RIGHTS.**

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

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

- 27 1. A violation of any of the provisions of this Chapter.
28

1 2. A Permittee, Responsible Person, Manager or any Massage
2 Technician employed or contracted by the Permittee has been convicted of any law
3 specified in Sections 11.07.030 and/or 11.07.040 of this Chapter.

4 3. The Permit Administrator makes any findings necessary to deny a
5 permit pursuant to Section 11.07.040 of this Chapter.

6 4. Employing or retaining any person to perform massage services who
7 does not hold a current and valid Massage Certificate issued by CAMTC, pursuant
8 to California Business and Professions Code Sections 4600 et seq. (or successor
9 provision or provisions), or whose certificate is not in good standing.

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

16 C. If the Permit Administrator determines and concludes that a holder of a
17 City-issued Massage Establishment Permit has violated any conditions of its permit,
18 failed to adhere to or fulfill any requirement of this Chapter, failed to meet any of the
19 original grounds for approval, or violated any provision of this Chapter or condition of
20 permit to provide grounds to not renew a permit, or to suspend or revoke a permit,
21 the Permit Administrator shall revoke, suspend or not renew said permit by dated
22 written notice to the Permittee.

23 D. The Permit Administrator shall serve the Permittee, either personally or by
24 first class mail addressed to the address listed on the application, with a written
25 notice of nonrenewal, or a notice to suspend or revoke a permit. This notice shall
26 state the reasons for the action, the effective date of the decision, the right of the
27 Permittee to appeal the decision to the City Manager, and that the Permit
28 Administrator's decision will be final if no written appeal is timely submitted to, and

1 received by, the City, pursuant to the provisions in Section 11.07.100 of this
2 Chapter. This notice will be effective within fifteen (15) calendar days from the date
3 of service of the notice. If an appeal is timely and properly filed in accordance with
4 Section 11.07.100, then the effective date of the notice is stayed.

5
6 **§ 11.07.100 APPEAL.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 4. At the date, time and location set forth in the notice of appeal hearing,

1 the City Manager or an appointed hearing officer, shall hear and consider the
2 testimony of the appellant(s), the Permit Administrator, and/or their witnesses, as
3 well as any documentary evidence properly submitted by these persons.

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

5 (a) Appeal hearings are informal, and formal rules of evidence and
6 discovery do not apply. However, rules of privilege shall be applicable to the extent
7 they are permitted by law, and irrelevant, collateral, undue, and repetitious testimony
8 may be excluded.

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

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

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

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

25 (f) The appellant and the Permit Administrator issuing the notice, may
26 represent himself, herself or themselves, or be represented by a legal representative
27 of his, her, or their choice.
28

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

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

5 6. If the appellant, or his or her legal representative, fails to appear at the
6 appeal hearing, the City Manager, or the appointed hearing officer, shall cancel the
7 appeal hearing and send a notice thereof to the appellant by first class mail to the
8 address(es) stated on the notice of appeal. A cancellation of a hearing due to non-
9 appearance of the appellant shall constitute the appellant's waiver of the right to
10 appeal and a failure to exhaust all administrative remedies. In such instances, the
11 Permit Administrator's notice of decision is final and binding.

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

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

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

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

27 2. The decision of the City Manager, or appointed hearing officer, is final
28 and conclusive. The decision shall also contain the following statement: "The

1 decision of the City Manager, or appointed hearing officer, is final and binding.
2 Judicial review of this decision is subject to the time limits set forth in California
3 Code of Civil Procedure Section 1094.6."

4 3. A copy of the Final Order shall be served by first class mail on the
5 appellant. If the appellant is not the owner of the real property in which the
6 Massage Establishment is located, or proposed to be located, a copy of the Final
7 Order may also be served on the property owner by first class mail to the address
8 shown on the last equalized assessment roll. Failure of a person to receive a
9 properly addressed Final Order shall not invalidate any action or proceeding by the
10 City pursuant to this Chapter.

11
12 **§ 11.07.105 PROHIBITION FROM REAPPLYING FOR A MASSAGE**
13 **ESTABLISHMENT PERMIT.**

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

21 **§ 11.07.110 SURRENDER OF MASSAGE ESTABLISHMENT PERMIT.**

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

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

1 **§ 11.07.115 APPLICABILITY TO EXISTING MESSAGE ESTABLISHMENTS.**

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

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

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

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

25 **§ 11.07.120 FEES.**

26 The City Council shall establish by resolution, and from time to time may amend,
27 the fees for the administration of this Chapter, including but not limited to, original
28

1 application, renewal application, and inspection fees. Fees required by this Chapter
2 shall be in addition to any other fees that may be required under any other section,
3 provision, or chapter of this Code.

4
5 **§ 11.07.125 VIOLATIONS AND PENALTY.**

6 A. Any person who violates any provision of this Chapter is guilty of a
7 misdemeanor.

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

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

24 D. Each person shall be guilty of a separate offense for each and every day,
25 or part thereof, during which a violation of this Chapter, or of any law or regulation
26 referenced herein, is allowed, committed, continued, maintained or permitted by
27 such person, and shall be punishable accordingly.
28

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

4 F. The penalties set forth herein are cumulative and in addition to all other
5 remedies, violations, and penalties set forth in this Chapter, the City's Code, or in
6 any other ordinance, laws, rules or regulations of the City, County, or the State of
7 California.

8
9 **§ 11.07.130 EFFECT ON OTHER ORDINANCES.**

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

15 **SECTION 3. City of Culver City Municipal Code Section 11.01.305**
16 **("Schedule of Businesses Requiring Certificate of Compliance or Permit") of Chapter**
17 **11.01 ("General Licensing") of Title 11 ("Business Regulations") is amended by**
18 **deleting ", including massage establishments" from the type of businesses that**
19 **require a permit from the Committee on Permits and License, and adding massage**
20 **establishments as a separate category, to read as follows:**

21
22 Health clubs, spas or other similar types CPL
23 of establishments (excluding massage establishments)

24 ...

25 Massage establishments (including health clubs, spas or See Chapter 11.07
26 other similar types of establishments that offer massage services)
27
28

1 **SECTION 4:** The temporary moratorium established by Ordinance No. 2015-
2 001 and extended by Ordinance Nos. 2015-002 and 2016-004, on the issuance of
3 any new permit, license, approval or entitlement pertaining to new massage
4 establishments or the location or relocation of existing massage establishments
5 within the City, shall terminate upon the effective date of this Ordinance, and
6 Ordinance No. 2016-004 shall be of no further force or effect.

7 **SECTION 5:** Nothing in this Ordinance shall be construed to affect any suit
8 or proceeding impending in any court, or any rights acquired, or liability incurred, or
9 any cause or causes of action acquired or existing, under any act or Ordinance
10 hereby repealed as cited in Section 1 of this Ordinance; nor shall any just or legal
11 right or remedy of any character be lost, impaired or affected by this Ordinance.

12 **SECTION 6:** Pursuant to Section 619 of the City Charter, this Ordinance shall
13 take effect thirty (30) days after its adoption. Pursuant to Section 616 and 621 of
14 the City Charter, prior to the expiration of fifteen (15) days after the adoption, the
15 City Clerk shall cause this Ordinance, or a summary thereof, to be published in the
16 Culver City News and shall post this Ordinance or a summary thereof in at least
17 three (3) places within the City.

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1 **SECTION 7:** City Council hereby declares that, if any provision, section,
2 subsection, paragraph, sentence, phrase or word of this Ordinance is rendered or
3 declared invalid or unconstitutional by any final action in a court of competent
4 jurisdiction or by reason or any preemptive legislation, then the City Council would
5 have independently adopted the remaining provisions, sections, subsections,
6 paragraphs, sentences, phrases, or words of this Ordinance, and as such they shall
7 remain in full force and effect.

8 APPROVED and ADOPTED this _____ day of _____ 2016.
9

10
11
12 _____
JIM B. CLARKE, MAYOR
City of Culver City, California
13

14
15 ATTEST:

APPROVED AS TO FORM:

16
17 _____
JEREMY GREEN
Deputy City Clerk
18

19 _____
CAROL A. SCHWAB
City Attorney
20

21
22
23
24
25
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28 A16-00838