

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING CHAPTER

5.76 OF THE MUNICIPAL CODE PERTAINING TO MASSAGE ESTABLISHMENT PERMITS

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 5.76 of Title 5 of the Santa Barbara Municipal Code is amended to read as follows:

5.76.010 Purpose and Intent.

- A. Purpose. The purpose of this Chapter is to provide for the orderly regulation of businesses offering massage therapy services in the City, in the interests of the public health, safety, and welfare, by establishing minimum standards for the operation of massage establishments and minimum qualifications for those who own, operate, and practice within them, and by deterring the use of massage businesses as a cover for human trafficking, prostitution, and related conduct prohibited by state law.
- B. Relationship to State Law. This Chapter is intended to supplement the statewide regulation of massage professionals established by the Massage Therapy Act, and shall be construed consistently with that Act and with Chapter 6 of Part 1 of Division 1 of Title 5 of the Government Code. Nothing in this Chapter shall be construed to define or regulate a massage establishment as an adult entertainment business.

5.76.020 Definitions.

The definitions in this Section apply to the interpretation of this Chapter unless the context clearly requires a different meaning:

APPLICANT. Any person that seeks a massage establishment permit as required by this Chapter.

APPROVED SCHOOL. An institution that provides massage therapy education and training as such term is defined in the Massage Therapy Act.

CALIFORNIA MASSAGE THERAPY COUNCIL or CAMTC. The massage therapy organization formed pursuant to Business and Professions Code Section 4600 et seq.

CAMTC CERTIFICATE. A current and valid certificate issued by the CAMTC to a massage practitioner or a massage therapist.

CAMTC-CERTIFIED MESSAGE PROFESSIONAL. Any person currently certified by the CAMTC as a massage practitioner or a massage therapist pursuant to the Massage Therapy Act.

CHIEF OF POLICE. The person appointed to hold the position of Chief of Police of the Santa Barbara Police Department. The term includes any subordinate member of the Police Department to whom the Chief of Police has delegated authority for the administration of this Chapter but does not include a Reviewing Officer.

CITY INSPECTOR. The person or persons designated by the Chief of Police to conduct any inspections required or permitted under this Chapter.

COMPENSATION. The payment, loan, advance, donation, contribution, deposit, exchange, or gift of money or anything of value.

DISQUALIFYING OFFENSE. Any of the following:

1. A violation of Section 236.1, 266, 266a, 266e, 266f, 266g, 266h, 266i, 266j, 314, 315, 316, 318, 647(a), or 647(b) of the California Penal Code.
2. Any offense for which registration is required under Section 290 of the California Penal Code.
3. An attempt or a conspiracy to commit any offense described in subdivision 1 or 2 of this definition.
4. An offense under the laws of the United States, of another state, or of any other jurisdiction that would constitute an offense described in subdivisions 1 through 3 of this definition if committed in California.

A person has been “convicted of” a Disqualifying Offense upon a plea or verdict of guilty, a plea of nolo contendere, or a finding of guilt by a court, regardless of whether sentence has been imposed or the matter is on appeal. A person has “committed” a Disqualifying Offense where the conduct constituting the offense is established by clear

and convincing evidence, whether or not a criminal charge was filed or a conviction obtained such as in the case of a civil order.

EMPLOYEE. Any person who renders a service for the massage establishment or is involved in the operations of the massage establishment including, but not limited to, a massage professional, receptionist, owner, operator, or manager. Employee includes salaried employees and independent contractors.

HOME BASED MASSAGE ESTABLISHMENT. A massage business operated entirely within a sole proprietor's dwelling and conducted solely as an activity that is incidental and secondary to the residential use of the dwelling, and in which no person other than the sole proprietor is employed in the business.

MANAGER. Any person, other than an owner, who is responsible for the day-to-day operation of a massage establishment, or who is in charge of the premises of a massage establishment in the absence of an owner.

MASSAGE ESTABLISHMENT. Any business that offers massage therapy services in exchange for compensation. Massage establishments advertising outcall massage services within the City online or on electronic application platforms, as well as home based massage establishments that provide outcall massage services within the City, are considered to be massage establishments.

MASSAGE PRACTITIONER. Any person who has been certified as a massage practitioner and maintains a current and valid CAMTC Certificate under the Massage Therapy Act or has been granted an exception pursuant to Section 5.76.070.

MASSAGE PROFESSIONAL. A person employed or retained by a massage establishment to practice massage and listed on the roster required by Section 5.76.130.A.1.

MASSAGE THERAPIST. Any person who has been certified as a massage therapist and maintains a current and valid CAMTC Certificate under the Massage Therapy Act or has been granted an exception pursuant to Section 5.76.070.

MASSAGE THERAPY. The scientific manipulation of soft tissues. For purposes of this Chapter, the terms “massage,” “massage therapy,” “massage therapy services,” and “bodywork” shall have the same meaning.

MASSAGE THERAPY ACT. Chapter 10.5 of Division 2 of the California Business and Professions Code (beginning at Section 4600).

OPERATOR. Any person who is an owner or manager of a massage establishment.

OUTCALL MASSAGE SERVICE. The engaging in or carrying on of massage therapy services for compensation at locations other than a massage establishment at a fixed location.

OWNER. Any of the following persons:

1. A sole proprietor operating a massage establishment.
2. Any general partner of a general or limited partnership that owns a massage establishment.
3. Any person who has a ten percent or greater ownership interest in a corporation that owns a massage establishment.
4. Any person who is a member of a limited liability company that owns a massage establishment.
5. Any person who has a ten percent or greater ownership interest in any other type of business association that owns a massage establishment.

PATRON. A person on the premises of a massage establishment for the purpose of receiving massage therapy.

PERMITTEE. The person to which a Massage Establishment Permit has been issued for a specific massage establishment. Any notice required to be given to a permittee is sufficient if given to the massage establishment for which the massage establishment permit has been given at the location of the business as stated on the permit, or to any owner or operator of the business.

PERSON. Includes any person, firm, association, partnership, corporation, joint venture, limited liability company, or combination of persons.

RECEPTION AREA. An area immediately inside the main entry door of the massage establishment dedicated to the reception and waiting of patrons or visitors of the massage establishment and which is not a massage therapy room or otherwise used for the provision of massage therapy services.

REVIEWING OFFICER. The employee of the Police Department designated by the Chief of Police to review and approve or deny applications, permits, and permit amendments pursuant to this Chapter.

SEXUALLY ORIENTED MATERIAL. Means any book, periodical, magazine, photograph, posters, drawing, sculpture, motion picture film, video, compact disc, or other written, oral, or visual representation, which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

SEXUALLY ORIENTED MERCHANDISE. Means any instruments, devices, or paraphernalia which are designed to be used in connection with specified sexual activities, or goods which are replicas of, or which simulate specific anatomical areas, or goods which are designed to be placed on or in specified anatomical areas, or to be used in conjunction with specified sexual activities.

SOLE PROPRIETORSHIP. A massage establishment where the owner owns one hundred percent of the business, is the only person who provides massage therapy services for compensation for that massage establishment, and has no employees.

SPECIFIED ANATOMICAL AREAS. Shall have the same meaning as the term “Specified Anatomical Areas” as defined in Title 28, Section 28.81.020 of this Code.

SPECIFIED SEXUAL ACTIVITIES. Shall have the same meaning as the term “Specified Sexual Activities” as defined in Title 28, Section 28.81.020 of this Code.

VISITOR. Any person not retained or employed by the massage establishment and not receiving or waiting to receive massage therapy services, but excluding law enforcement personnel or governmental officials performing governmental business.

5.76.030 Business Tax Required.

The requirements of this Chapter are in addition to any business tax remittance and business tax certificate requirements imposed pursuant to Chapter 5.04 of this Code.

5.76.040 Other Permits and Authorizations Required.

- A. In addition to compliance with this Chapter, a massage establishment must comply with applicable state and local law, including building, fire, zoning, and health codes.
- B. Section 30.185.200 of this Code shall not apply to any home based massage establishment for which a massage establishment permit has been issued and is lawfully operating under this Chapter.

5.76.050 Exemptions from this Chapter.

This Chapter shall not apply to the following classes of persons while engaged in the performance of the duties of their respective professions:

- A. Physicians, surgeons, chiropractors, osteopaths, podiatrists, physical therapists, nurses, acupuncturists or any other person licensed to practice any healing art under the provisions of Division 2 (commencing with Section 500) of the Business and Professions Code when engaging in such practice within the scope of their license.
- B. Trainers of any amateur, collegiate, semi-professional, or professional athlete or athletic team, so long as such persons do not practice massage therapy as their primary occupation at any location where they provide such services in the City.
- C. Barbers, estheticians, manicurists, and cosmetologists who are duly licensed under the laws of the State of California, while engaging in practices within the scope of their licenses, provided that such massage is limited solely to the neck, face, scalp, feet, hands, arms, and lower limbs up to the knees, of their patrons.
- D. Somatic practitioners who use no physical touch of any kind at any time in their practice.
- E. Practitioners providing craniosacral massage therapy, to the extent such services are limited to craniosacral techniques only.

- F. Enrolled students of an approved school of massage when they are performing massage within the City as part of a formal supervised internship or training program operated by the approved school, without compensation other than school credit, on the premises of a massage establishment duly authorized to operate pursuant to the terms of this Chapter; and provided that the operator of the massage establishment has first notified the Reviewing Officer in writing of the name, residence address, and approved school of the students and the dates of the trainings.
- G. Employees of state-licensed hospitals, nursing homes, and other state-licensed physical or mental health facilities.
- H. Any person providing massage without compensation to a family member or friend, where no massage establishment is involved.

5.76.060 Certification Required.

- A. It shall be unlawful for any person to provide massage therapy services for compensation within the City unless the following requirements are met:
 - 1. The person is providing massage therapy services for or on behalf of a permitted massage establishment; and
 - 2. The person is either a CAMTC-certified massage professional, or has been granted an exception certificate pursuant to Section 5.76.070 below.

- B. Successor Credential. If the Massage Therapy Act is repealed, or is amended to replace certification by the CAMTC with another state license, certificate, or registration authorizing the practice of massage for compensation, then every reference in this Chapter to the CAMTC, a CAMTC certificate, or a CAMTC-certified massage professional means that successor credential and the agency that issues it. A person holding a valid CAMTC certificate on the date of the change remains in compliance with Subsection A until that certificate expires.
- C. Lapse Without Successor. If the Massage Therapy Act is repealed and no successor credential described in Subsection B takes effect, a person satisfies Subsection A.2 by providing the Reviewing Officer documented proof of graduation from an approved school with a minimum of 200 hours of massage therapy education and training, or by holding an exception certificate issued under Section 5.76.070.

5.76.070 Exceptions from CAMTC Certification Requirement.

- A. A person may seek an exception from the CAMTC certified massage professional requirement under Section 5.76.060.A.2 by submitting an exception application to the Reviewing Officer on a form provided by the Chief of Police demonstrating that the person has satisfied the requirements of either Subsection B or Subsection C, and has submitted the information required by Subsection D below. If the person's exception application is approved, either a "Limited Exception Certificate" or an "Indefinite Exception Certificate" with an accompanying exception identification

card will be issued to the person depending on the exception the person is qualified for. The exception identification card shall bear the holder's photograph and the expiration date of the certificate. A holder shall surrender the certificate and identification card to the Reviewing Officer within ten days after the certificate expires or is revoked, and may obtain a replacement card upon payment of any applicable fee.

B. Limited Exception Certificate. A Limited Exception Certificate may be granted to a person who submits an exception application to the Reviewing Officer providing documented proof of either of the following:

1. The person worked as a massage therapist or massage practitioner, whether or not certified, in the City of Santa Barbara on or before November 10, 2026, and meets the requirements of Subsection C.2; or
2. On or before November 10, 2026, the person is enrolled as a student at an approved school in a course of study that, when completed, will satisfy the education requirements of Business and Professions Code Section 4604, or any successor provision, and the person is in the process of completing that course of study. Until the person has completed 200 hours of the course of study, the person may provide massage therapy services only under the supervision of an instructor of the approved school in which the person is enrolled.

3. The limited exception provided for under this Subsection B shall remain in effect until December 31, 2029.

C. Indefinite Exception Certificate. An Indefinite Exception Certificate may be granted to a person who submits an exception application providing documented proof of both of the following:

1. The person worked as a massage therapist or massage practitioner, whether or not certified, in the City of Santa Barbara for a period of not less than ten years prior to November 10, 2026; and
2. The person is currently employed as a massage therapist or massage practitioner, whether or not certified, in the City of Santa Barbara, and has successfully graduated from a massage school or training curriculum with a minimum of 200 hours.

D. Exception Application Contents. In addition to the proof required by Subsection B or Subsection C, an exception application shall include:

1. Whether the person has, within the five years immediately preceding the date of application, been convicted of any felony in any jurisdiction;
2. Whether the person is required to register under Section 290 of the California Penal Code;

3. The person's business, occupation, and employment history for the five years preceding the date of application, and the inclusive dates of same;
 4. A Live Scan background check or other equivalent background check as approved by the Chief of Police. Any background check required by this Subsection D shall be paid for by the person; and
 5. A mailing address at which the person consents to receive notices under this Chapter.
- E. A person granted an exception certificate pursuant to Subsection B or Subsection C above shall:
1. Remain in compliance with the other terms of this Chapter; and
 2. Display the exception certificate in the same manner as provided for in Section 5.76.130.B.8 below; and
 3. Notify the Reviewing Officer in writing within 30 days of any changes to the person's employment such as employment with additional professionals or employment with new massage establishments within the City; and
 4. Annually provide the Reviewing Officer with a written verification of the person's employment information. An exception certificate expires automatically if the holder fails to provide the annual verification within thirty days after written notice from the Reviewing Officer that the

verification is past due. A certificate that has expired under this Subdivision 4 may be reinstated upon submission of the verification and payment of any applicable fee.

F. Grounds for Denial, Revocation, or Suspension. An exception certificate may be denied, or an issued exception certificate may be revoked or suspended, if any of the following apply: (i) the person has been convicted of or committed a Disqualifying Offense within five years before the date of application or at any time after an exception certificate has been issued; (ii) the person is required to register under Section 290 of the California Penal Code; (iii) the person fails to comply with the requirements set forth in Subsection E above; (iv) the person is found to have violated any of the prohibited conduct provided for in Section 5.76.190. A denial, revocation, or suspension of an exception certificate shall be noticed and may be appealed as provided in Section 5.76.160.

G. Term and Renewal. An exception certificate issued under this Section is valid for two years from the date of issuance and may be renewed for successive two-year terms upon application to the Reviewing Officer. A renewal application shall include the employment verification required by Subsection E.4 above and a statement, signed under penalty of perjury, whether the holder has been convicted of or committed a Disqualifying Offense or is required to register under Section 290 of the California Penal Code since the certificate was last issued. The Reviewing Officer shall renew the certificate unless a ground for denial under Subsection F above exists. A denial

of renewal shall be noticed and may be appealed as provided in Section 5.76.160. Nothing in this Subsection G extends a Limited Exception Certificate beyond the date stated in Subsection B.3 above.

- H. The applicant shall pay a non-refundable fee in an amount established by the City Council to recover costs associated with applications or renewals.

5.76.080 Message Establishment Permit Required.

- A. It is unlawful for any person to operate, engage in, promote, advertise, conduct, or carry on a massage establishment located within the City without first obtaining a Massage Establishment Permit from the Reviewing Officer. A separate Massage Establishment Permit shall be required for each massage establishment regardless of ownership.
- B. It shall be unlawful for a massage establishment operator to employ or retain any person to practice massage therapy for compensation, or to allow any person to perform massage therapy for compensation on the premises of a massage establishment unless:
 - 1. That person is a CAMTC-certified massage professional or has been provided an exception certificate pursuant to Section 5.76.070; and

2. That person is listed on the roster required by Section 5.76.130.A.1, and the operator has given the Reviewing Officer the notice required by Subsection F below.

C. A massage establishment operator “employs or retains” a person to practice massage therapy for compensation when:

1. That person is a directly paid employee of the massage establishment; or
2. That person’s association with a massage establishment is that of an independent contractor who receives compensation for massage therapy provided to patrons of the massage establishment; or
3. That person receives a referral of patrons from the massage establishment and, at any time before or after the referral, arranges in any way for compensation to flow to the massage establishment operator.

D. It is unlawful for a massage establishment to operate under any name or conduct business under any designation not specified in the Massage Establishment Permit issued pursuant to this Chapter.

E. It is unlawful for a massage establishment to continue to operate following the sale or transfer of any interest in the massage establishment to a person who was not identified as an owner in the massage establishment permit application or in a duly approved massage establishment permit amendment pursuant to Section 5.76.120.

- F. Notice of Staffing Changes. Within ten days after any person begins or ceases to practice massage therapy for, or to act as a manager of, the massage establishment, the operator shall notify the Reviewing Officer in writing on a form provided by the Chief of Police, including a copy of the person's CAMTC or exception certificate and identification card, or, for a manager who is not a CAMTC-certified massage professional, the information required by Section 5.76.090.J and proof that the person has submitted to the Live Scan background check. A person may begin work when added to the roster, subject to Section 5.76.085. A staffing change is not a permit amendment under Section 5.76.120.

5.76.085 Background Checks.

- A. Who Must Be Checked. A Live Scan state and federal criminal history background check is required only of an operator who is not a CAMTC-certified massage professional (Sections 5.76.080.F and 5.76.090.J), an applicant for an exception certificate (Section 5.76.070.D), and a person subject to an enhanced screening order under Subsection C. No CAMTC-certified massage professional shall be required to submit to a background check under this Chapter.
- B. Eligibility. A person who has submitted to a background check under this Section is ineligible to act as a manager of any massage establishment, or to work for a massage establishment subject to an enhanced screening order, if the person is required to register under Section 290 of the California Penal Code or has been

convicted of a Disqualifying Offense within the five years before the background check or at any time after it. A conviction vacated under Section 236.14 or Section 1203.49 of the California Penal Code, or otherwise set aside because the person was a victim of human trafficking, does not count.

- C. Enhanced Screening Order. The Reviewing Officer may order, in writing and for a stated period of not more than two years, that every person employed or retained by a massage establishment who works on the premises or deals with patrons, other than a CAMTC-certified massage professional or the holder of an exception certificate, submit to a Live Scan background check, if within the two years before the order (i) a decision suspending or revoking a Massage Establishment Permit held by the massage establishment or any of its owners became final on a ground stated in Section 5.76.150.B through K; (ii) the massage establishment's permit was summarily suspended under Section 5.76.160.J; (iii) a City Inspector found a person working at or for the massage establishment who was not listed on the roster required by Section 5.76.130.A.1 or whose identity the operator could not establish; or (iv) a permit for the same premises was revoked or a moratorium period was imposed at the premises under Section 5.76.180. A person employed when the order is served shall submit to the background check within ten days after service, and a person hired while the order is in effect may begin work upon submittal. The permittee may appeal the order under Section 5.76.160, and the order remains in effect while the appeal is pending unless the Chief of Police orders otherwise.

D. Notice of Ineligibility. Within ten days after receiving the results of a background check under this Section, the Reviewing Officer shall notify the massage establishment in writing that the person is eligible, or shall serve notice of ineligibility on the person, stating the grounds, and on the massage establishment, stating only that the person is ineligible. An ineligible person shall not act as a manager of, or work for, the massage establishment as provided in Subsection B, and may appeal the notice of ineligibility under Section 5.76.160.

5.76.090 Massage Establishment Permit Application.

The owner of the massage establishment shall file a massage establishment permit application on a form provided by the Chief of Police for each massage establishment owned or operated. The massage establishment permit application shall be submitted with the fee established by the City's fee schedule. If there is more than one owner, then each owner must provide the required information.

The applicant consents to service of all required notices under this Chapter to the physical address of the massage establishment, which shall be the service address for notice. The massage establishment permit application shall include the following information:

A. The name, physical address if applicable, mailing address, and telephone number of the massage establishment.

- B. The name, residence address, telephone number, business address, and business telephone number of each owner of the massage establishment.
- C. A copy of the applicant's California Driver's License or California Department of Motor Vehicles issued Identification Card or other federally recognized form of identification.
- D. The form of business entity under which the applicant will conduct the massage establishment, and, if the applicant is an entity, its exact legal name as shown in its organizational documents and the name and residence address of each officer, director, general partner, limited partner, member, and holder of more than a ten percent ownership interest. If any such person is itself an entity, this Subsection D applies to that entity in turn.
- E. The name, address, and telephone number of the owner of the real property upon, in, or from which the massage establishment is to be operated. In the event that the applicant is not the legal owner of the property, the application shall be accompanied by a copy of any written lease between the applicant and the property owner(s) authorizing use of the premises for a massage establishment, or, alternatively, if there is no written lease, then a written, notarized acknowledgment from the property owner(s) of record that the property owner(s) has been advised that a massage establishment will be operated by the applicant upon, in, or from the property.

- F. A description of the proposed massage establishment business, including the type of treatments to be administered.
- G. The name, date of employment, and list of duties of each person whom the massage establishment employs or retains in any capacity, including each person who performs massage therapy for compensation, whether on or off the massage establishment premises.
- H. For each person whom the massage establishment employs or retains, or will employ or retain on the date operations begin, to perform massage therapy for compensation, whether on or off the massage establishment premises, a copy of that person's current certification from the CAMTC as a certified massage practitioner or certified massage therapist, along with a copy of the person's current CAMTC issued identification card, or alternately, an exception certificate and identification card issued to the person pursuant to Section 5.76.070.
- I. For each operator of the massage establishment who is a CAMTC-certified massage professional, a copy of that operator's current certification from the CAMTC as a certified massage practitioner or as a certified massage therapist and a copy of that operator's current CAMTC-issued identification card.
- J. For each operator of the massage establishment who is not a CAMTC-certified massage professional, the following information:

1. Whether the person has within the five years immediately preceding the date of application been convicted of any felony in any jurisdiction.
 2. Whether the person is required to register under the provisions of Section 290 of the California Penal Code.
 3. The business, occupation, and employment history of the person for five years preceding the date of application, and the inclusive dates of same.
 4. A Live Scan background check or other equivalent background check as approved by the Chief of Police. Any background check required of an operator shall be paid for by the applicant.
- K. A signed statement by the applicant stating whether any license or permit has ever been issued to the applicant by any jurisdiction under the provisions of any ordinance or statute governing massage, and as to any such license or permit, the name and address of the issuing authority, the effective dates of such license or permit, whether such license or permit was ever suspended, revoked, withdrawn, or denied; and copies of any documentary materials relating to such suspension, revocation, withdrawal, or denial.
- L. Such other information as may be required by the Chief of Police to determine compliance with any other eligibility requirements for issuance of the permit as specified by federal, state, or local law.

- M. A signed statement by the applicant stating, under penalty of perjury under the laws of the State of California, that all information in the massage establishment permit application is true and correct to the best of their knowledge.

5.76.100 Massage Establishment Permit Issuance.

- A. The Reviewing Officer shall issue to the massage establishment a “Standard Massage Establishment Permit” or a “Sole Proprietorship Massage Establishment Permit” (collectively referred to as the “Massage Establishment Permit”) if the applicant on the massage establishment permit application meets the requirements of this Chapter and no grounds for denial exist under Section 5.76.110. The Reviewing Officer may impose conditions on the issuance of such permit consistent with this Chapter and applicable law. All conditions shall be made in writing and are subject to appeal under Section 5.76.160.

1. A Standard Massage Establishment Permit issued pursuant to the terms of this Chapter shall be valid for a term of 12 months from the date of issuance, unless earlier suspended or revoked, and such permit must be renewed annually so long as the massage establishment is operating within the City.
2. A massage establishment that meets the definition of a “sole proprietorship” shall be issued a Sole Proprietorship Massage Establishment Permit, provided the owner is a CAMTC-certified massage professional or has been granted an exception certificate pursuant to Section 5.76.070. The Sole

Proprietorship Massage Establishment Permit is valid for a period of 24 months from the date of issuance, unless suspended or revoked, and shall be renewed every two years so long as the sole proprietor is operating within the City. The Sole Proprietorship Massage Establishment Permit shall include a designation specifying whether the sole proprietorship conducts massage services at a fixed location or conducts outcall massage services only. Sole proprietorship massage establishments that engage in a combination of both fixed location massage services and outcall massage services shall be deemed to have a fixed location.

a. A sole proprietorship with a fixed location designation on the Sole Proprietorship Massage Establishment Permit shall be subject to massage establishment inspections pursuant to Section 5.76.140.

b. A sole proprietorship with an outcall only designation on the Sole Proprietorship Massage Establishment Permit shall not be subject to massage establishment inspections pursuant to Section 5.76.140.

B. Notice to Property Owner. If the applicant is not the property owner of record where the massage establishment is located, the Reviewing Officer may send a written notice to the property owner advising the property owner of record of the issuance of the permit.

- C. Any permit issued pursuant to this Chapter is valid only at the address, if applicable, and for the applicant specified therein, and cannot be sold, transferred, or assigned to any other person or entity.
- D. Time for Decision. Within ten days after an application is filed, the Reviewing Officer shall notify the applicant in writing whether the application is complete and, if not, what is missing. The Reviewing Officer shall approve, conditionally approve, or deny a complete application within forty-five days after it is determined to be complete. The period may be extended once, for not more than thirty days, by written notice to the applicant stating the reason.
- E. Continuation Pending Renewal. If a renewal application is filed before the permit expires, the permit remains in effect until the Reviewing Officer acts on the renewal application.

5.76.110 Message Establishment Permit Denial.

- A. The Reviewing Officer may deny a message establishment permit application on any of the following grounds:
 - 1. The message establishment, as proposed by the applicant, would not comply with the requirements of this Chapter.
 - 2. The message establishment, as proposed by the applicant, would not comply with the City's building, fire, zoning, and health regulations.

3. The applicant has made any false, misleading, or fraudulent statement of material fact in the massage establishment permit application.
4. Any operator of the massage establishment is required to register under the provisions of Section 290 of the California Penal Code.
5. Any operator of the massage establishment has, within five years before the date of the application, been convicted of or committed a Disqualifying Offense.
6. Any operator of the massage establishment has, within five years before the date of the application, been subjected to a permanent injunction against the conducting or maintaining of a nuisance pursuant to Sections 11225 through 11235 of the California Penal Code, or any similar provision of law in a jurisdiction outside the State of California.
7. Any operator of the massage establishment is a person who has not attained the age of majority under California law.
8. Any operator of the massage establishment, within five years immediately preceding the date of filing of the application, has had a permit or license to practice massage therapy for compensation or to own or operate a massage establishment or business revoked or denied in any jurisdiction.

9. Any operator of the massage establishment currently owns or operates a massage establishment in the City that is not in good standing due to the existence of uncorrected violations, current permit suspensions, or unpaid fines or fees.
- B. A denial under this Section shall be supported by written findings stating the ground or grounds relied upon and the facts supporting each ground, consistent with Section 5.76.160.G, shall be noticed, and may be appealed as provided in Section 5.76.160. The Reviewing Officer shall apply the grounds in this Section consistently to similarly situated applicants.

5.76.120 Amendments to Massage Establishment Permit.

- A. Whenever the information provided in the Massage Establishment Permit on file with the City changes or needs correction for any reason, other than a staffing change governed by Section 5.76.080.F, the owner shall file a permit amendment application with the Reviewing Officer within thirty days of the change(s) or discovery of the need for correction(s). A permit amendment application shall be made by submitting a form provided by the Chief of Police stating the change(s) or correction(s) to the information on the Massage Establishment Permit along with the appropriate fee established by the City's fee schedule.
- B. The permit amendment application shall not be approved unless the Reviewing Officer determines that the terms of the amended Massage Establishment Permit

comply with all requirements of this Chapter and all other local, state, and federal laws, and the massage establishment has no outstanding violations or unpaid citations or fees. Inspection of the massage establishment may be required prior to approval of the permit amendment application.

- C. A denial of a permit amendment application shall be noticed and may be appealed as provided in Section 5.76.160.

5.76.130 Requirements for Massage Establishment Facilities and Operations.

- A. Requirements for All Massage Establishments. The following apply to every massage establishment:

1. The massage establishment shall keep, and shall make available for inspection by City Inspectors, the following records: (i) a complete and current roster of all operators, employees, and independent contractors of the massage establishment, stating for each person the person's full name, date of birth, position or duties, and the date the person began work, and, for each massage professional, the number of the person's CAMTC certificate or exception certificate, together with a copy of a government-issued photograph-bearing identification for each person listed; (ii) an appointment log showing the date, start time, and name of the massage professional for each massage therapy session; and (iii) for any outcall massage service, a log showing the date, start time, address at which the

service was provided, and name of the massage professional. No person shall work at or for the massage establishment unless listed on the roster. Any government-issued photograph-bearing identification, including one issued by a foreign government, satisfies this Subdivision, and nothing in this Subdivision requires the massage establishment to obtain, record, or disclose any person's immigration status. Records required by this Subdivision shall be retained for not less than two years. Nothing in this Subdivision requires the massage establishment to record or disclose a patron's health information.

2. The massage establishment shall at all times be equipped with an adequate supply of clean sanitary towels, coverings, and linens, and all massage tables and chairs shall be covered with a clean sheet or other clean covering appropriate to the equipment for each patron. After a towel, covering, or linen has been used once, it shall be deposited in a closed receptacle and not used again until it has been sanitized. Clean towels, coverings, and linens shall be stored in closed, clean cabinets when not in use. A massage professional engaged in the practice of outcall massage shall carry a sufficient quantity of clean and sanitary towels, sheets, and linens to comply with these requirements.
3. All liquids, creams, or other preparations used on or made available to patrons shall be kept in clean and closed containers. Powders may be kept

in clean shakers. All bottles and containers shall be distinctly and correctly labeled to disclose their contents. When only a portion of a liquid, cream, or other preparation is to be used on or made available to a patron, it shall be removed from the container in such a way as not to contaminate the remaining portion.

4. All combs, brushes, and other personal items of grooming or hygiene provided for the use of patrons shall be fully disinfected after each use.
5. Patrons' genitals must be fully draped at all times while any person employed or retained by the massage establishment is in the room where massage therapy services are provided.
6. While in the presence of any patron, employee, or visitor, no person shall dress in a manner that exposes the person's genitals or constitutes a violation of Section 314 of the California Penal Code.
7. All persons shall thoroughly wash their hands with soap and water or any equally effective cleansing agent immediately before providing massage services.
8. Each person employed or retained by a massage establishment to perform massage therapy services shall have readily available for inspection by City Inspectors the valid current photograph-bearing identification card issued

to that person by the CAMTC, or the equivalent identification card issued by the Reviewing Officer for any exception under Section 5.76.070. The home address of any person need not be displayed.

9. The massage establishment shall comply with the requirements of California Civil Code Section 52.6 related to the posting of information for victims of human trafficking.

B. Additional Requirements for Massage Establishments at a Fixed Location. The following apply to every massage establishment other than one holding a Sole Proprietorship Massage Establishment Permit with an outcall only designation, and are in addition to the requirements of Subsection A:

1. Patrons shall be permitted in massage therapy rooms only if at least one massage professional is present on the premises.
2. A professional massage table or professional massage chair shall be used for all massage therapy, with the exception of massage therapy services that require a floor mat.
3. All locker facilities provided for patron use shall be fully secured for the protection of the patrons' valuables, and each patron shall be given control of the key or other means of access.
4. No treatment room or office shall be equipped with tinted or one-way glass.

5. No video or audio recording devices or surveillance cameras of any type may be installed in rooms where massage services are or may be provided. No live-viewing, broadcasting, or streaming of audio or video may occur in a room where massage is provided.
6. The premises must be so equipped, maintained, and operated as to effectively control and abate the entrance, harborage, and breeding of rodents and vermin, including flies.
7. All massage therapy rooms or cubicles, wet and dry heat rooms, toilet rooms, shower compartments, hot tubs, and pools shall be cleaned and disinfected as needed, and at least once each business day when the premises has been or will be open and such facilities in use. All bathtubs shall be cleaned and disinfected after each use.
8. Each person employed or retained by the massage establishment to perform massage therapy services shall have their CAMTC certificate, or the equivalent certificate issued by the Reviewing Officer for any exception under Section 5.76.070, displayed in an open and conspicuous place.

C. Additional Requirements for Massage Establishments at a Non-Residential Fixed Location. The following apply to every massage establishment subject to Subsection B other than a home based massage establishment, and are in addition to the requirements of Subsections A and B:

1. The hours of operation shall be displayed in a conspicuous public place in the reception area and in any front window clearly visible from outside the massage establishment.
2. One main entry door shall be provided for patron entry, which shall immediately open to an interior patron reception area. All patrons and any person other than persons employed or retained by the massage establishment shall enter and exit through the main entry door. This requirement does not apply to a massage establishment holding a Sole Proprietorship Massage Establishment Permit.
3. No visitors shall be permitted in any room or part of the premises other than the reception area or public access bathrooms, except that a patron may be accompanied in the massage therapy room by any or all of the following:
 - a. A parent or guardian, if the patron is a minor;
 - b. The patron's minor child, when necessary for the child's supervision;
 - or
 - c. A conservator, guardian, aide, or other caregiver, if the patron is elderly or disabled.
4. A list of services available and the cost of such services shall be posted in an open and conspicuous public place on the premises. The services shall be

described in English and may also be described in such other languages as may be convenient. No massage establishment operator shall permit, and no person employed or retained by the massage establishment shall offer to perform, any services or request or demand fees other than those posted.

5. No beds or mattresses are permitted on the premises, other than a floor mat used as described in Subsection B.2 above. No massage establishment shall be used for residential or sleeping purposes, which may be shown by circumstantial evidence such as the presence of bedding, pillows, sleeping bags, suitcases, clothing, toiletries or other personal belongings, cooking appliances, utensils, or food in excess of a business establishment's normal requirements.
6. The Massage Establishment Permit shall be displayed in an open and conspicuous place on the premises visible from the main entry door or reception area.
7. Except at a massage establishment holding a Sole Proprietorship Massage Establishment Permit, an owner or manager who has been identified to the Reviewing Officer in the massage establishment permit application or in a notice given under Section 5.76.080.F shall be present on the premises and in charge of the massage establishment at all times it is open for business.

D. Additional Requirements for Home Based Massage Establishments. The following apply to every home based massage establishment, and are in addition to the requirements of Subsections A and B:

1. A home based massage establishment shall not alter the residential character of the property or adversely affect any use permitted within the zoning district in which the residence is located; nor shall a residence be altered to create an exterior entrance to a space devoted to a home based massage establishment or to create features not customary in residential development.
2. No exterior signage, display, display windows, or visible indication of the home based massage establishment shall be permitted.
3. No massage business merchandise or stock shall be stored or sold on or at the residence.
4. Only the sole proprietor shall be permitted to work at or from the residence.
5. No more than two patrons may visit the residence at once, and no more than four patron visits are allowed per residence per day.
6. A home based massage establishment shall not generate a volume of passenger or commercial traffic that is inconsistent with the normal level of traffic on the street on which it is located, or which creates the need for

additional parking spaces, or involves deliveries to or from the premises in excess of that which is customary for a residential unit.

- E. Outcall Only Massage Establishments. A massage establishment holding a Sole Proprietorship Massage Establishment Permit with an outcall only designation is subject to Subsection A and is not subject to Subsections B through D.

5.76.140 Massage Establishment Inspections.

- A. Because massage is a closely regulated industry, a massage establishment is required to permit City Inspectors to enter and reasonably inspect the premises of a permitted massage establishment, without a warrant, for the purpose of verifying compliance with this Chapter, the conditions of the permit, and applicable state law. An inspection under this Section is limited to:

1. Those portions of the massage establishment premises that are held open to patrons or in which massage therapy services are provided and prepared for;
2. The records this Chapter requires the massage establishment to keep on the premises, including the records required by Section 5.76.130.A.1; and
3. The permits, certificates, and identification cards this Chapter requires to be displayed or kept available for inspection.

- B. An inspection under this Section does not authorize entry into any area used exclusively for residential purposes, a search for evidence of criminal activity, or the seizure of any item except as otherwise authorized by law. Nothing in this Section limits the authority of a peace officer under state law.
- C. Inspections shall be conducted during the massage establishment's posted hours of operation or at any other time the massage establishment is open for business, and shall be conducted in a reasonable manner and with reasonable dispatch. Inspections may be conducted without prior notice. The City Inspector shall present identification and shall reasonably avoid interrupting a lawful massage therapy session in progress.
- D. A massage establishment may be inspected not more than six times per calendar year in the absence of cause. Additional inspections may be conducted upon a complaint, a credible report, or other articulable information suggesting a violation of this Chapter, of the conditions of the permit, or of state law, and to verify correction of a previously noted violation.
- E. A massage establishment with a Sole Proprietorship Massage Establishment Permit with an outcall only designation is not subject to premises inspection under this Section. Upon request, the permittee must produce the records and credentials described in Subdivisions A.2 and A.3 to the City Inspector either in person or electronically, within ten days of the request.

- F. The massage establishment operator shall correct each violation noted by the City Inspector within the time stated in the inspection report, which shall be reasonable in light of the nature of the violation. A reinspection may be conducted to verify correction.
- G. Home Based Massage Establishments. This Section does not authorize entry into a home based massage establishment without the consent of the permittee given at the time of the inspection. If consent is refused or withdrawn, no entry shall be made except pursuant to an inspection warrant under Code of Civil Procedure Section 1822.50 et seq., a search warrant, or another lawful basis for entry. Upon refusal of consent, the City Inspector may apply for an inspection warrant without further attempt to obtain consent, and may request that the warrant authorize immediate execution and entry in the absence of the permittee where the application shows that notice would defeat the purpose of the inspection. Refusal of consent is not a violation of this Chapter and is not a ground for denial, suspension, or revocation of a permit, but may be considered in determining whether to seek an inspection warrant. Refusal to permit entry after service of a warrant is a ground for revocation under Section 5.76.150.K. Nothing in this Section limits the authority of a peace officer to obtain or execute a search warrant under Penal Code Section 1523 et seq., or to enter without a warrant where exigent circumstances or another exception to the warrant requirement applies.

5.76.150 Revocation or Suspension of Massage Establishment Permit.

Any Massage Establishment Permit issued pursuant to this Chapter may be suspended or revoked, after notice and opportunity for appeal as provided in Section 5.76.160, upon a finding that any of the grounds set forth in Section 5.76.110.A.3 above (false statement in the application), or Subsections A through K below, exists. In determining whether to suspend or revoke a permit, and in determining the length of any suspension, the Reviewing Officer, and the Chief of Police on appeal, shall consider the gravity of the violation, whether it was knowing or willful, the permittee's history of compliance, the corrective action taken by the permittee, and whether a lesser sanction would adequately protect the public.

- A. The permittee or any person employed or retained by the massage establishment has violated any provision of this Chapter.
- B. The permittee or any person employed or retained by the massage establishment has been convicted of or committed a Disqualifying Offense.
- C. The permittee or any person employed or retained by the massage establishment is required to register under Section 290 of the California Penal Code.
- D. The permittee has continued to operate the massage establishment after the Massage Establishment Permit has been suspended.

- E. Massage therapy has been performed on the premises of the massage establishment, with or without the permittee's actual knowledge, by any person who is not compliant with Section 5.76.060 or Section 5.76.070 if applicable.
- F. A person who is not compliant with Section 5.76.060 or Section 5.76.070, if applicable, has provided outcall massage services through or on behalf of the massage establishment.
- G. One or more Disqualifying Offenses have been committed by the permittee, or any owner, operator, employee, independent contractor, or agent of the massage establishment on the premises of the massage establishment, whether or not with the actual knowledge of the permittee.
- H. The permittee, or any owner, operator, employee, independent contractor, or agent of the massage establishment, has engaged in conduct that a reasonable person in the patron's position would understand as an offer to perform, or to engage in with the patron, an act that is sexual in nature or that involves contact with the patron's genitals or anal region.
- I. The permittee, or any owner, operator, employee, independent contractor, or agent of the massage establishment, has placed, published, distributed, or caused to be placed, published, or distributed, any advertisement for the massage establishment or its services that:

1. Offers, or that a reasonable person would understand as offering, an act that is sexual in nature or that involves contact with a patron's genitals or anal region; or
 2. Describes the services offered in terms that a reasonable person would understand as denoting sexual activity; or
 3. Depicts a person in attire that is transparent or see-through, or that exposes specified anatomical areas.
- J. Conduct described in Subsection H has occurred on the premises of the massage establishment and was engaged in by a person who is not an owner, operator, employee, independent contractor, or agent of the massage establishment, and the permittee knew or, in the exercise of reasonable diligence, should have known of the conduct and failed to take prompt and reasonable action to prevent or stop it. Prompt reporting of the conduct to the Police Department is evidence of reasonable action under this Subsection J.
- K. The permittee or any person employed or retained by the massage establishment has refused or failed to permit entry and inspection pursuant to an inspection warrant issued under Code of Civil Procedure Section 1822.50 et seq., a search warrant, or other lawful process, after service of that warrant or process.

5.76.160 Notices, Hearings, and Appeals.

A. This Section is the exclusive administrative procedure for the denial of any application, the suspension or revocation of any permit or exception certificate, the imposition of a moratorium period, and the review of a notice of ineligibility under Section 5.76.085.

B. Initial Decision.

1. If the Reviewing Officer denies an application, the Reviewing Officer shall issue a written decision stating the grounds for denial and advising the applicant of the right to appeal under Subsection C.
2. To suspend or revoke a permit or exception certificate, or impose a moratorium period, the Reviewing Officer shall issue a written decision stating the action taken, the grounds for it, the pertinent code sections, the facts supporting each ground, the effective date, and the right to appeal under Subsection C. Where a moratorium period is imposed, the decision shall also be served on the owner of record of the property as shown on the latest county assessment roll, and shall advise the property owner of the right to appeal and to participate in the appeal hearing as a party on the question of the moratorium.

C. Appeal. Within fifteen days after personal service, or twenty days after service by mail, of a decision under Subsection B or a notice of ineligibility under Section 5.76.085, the applicant, permittee, certificate holder, or, as to a moratorium, the

property owner, or, as to a notice of ineligibility, the person notified, may appeal by filing a written appeal with the Chief of Police stating the grounds for the appeal. If no timely appeal is filed, the decision or notice becomes final on the day after the period to appeal expires, without further notice.

D. The Chief of Police may serve as hearing officer, unless, under the circumstances the Chief of Police determines that doing so would deny the permittee a fair and impartial hearing. In such cases, the Deputy City Administrator, or another person designated by the City Administrator who is not a Police Department employee, shall serve as the hearing officer.

E. Conduct of the Hearing.

1. The appeal hearing shall be set not less than fifteen nor more than sixty days after the appeal is received, and written notice of the date, time, and place shall be served at least ten days before the hearing if served personally, or at least fifteen days before the hearing if served by mail.
2. Each party may offer testimonial, documentary, and tangible evidence bearing on the issues, be represented by counsel, and confront and cross-examine witnesses.
3. Any relevant evidence may be admitted if it is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious

affairs, whether or not admissible over objection in civil actions; hearsay may supplement or explain other evidence but shall not by itself support a finding unless it would be so admissible. The Chief of Police may continue the hearing for a reasonable time for the convenience of a party or witness, and shall cause a record of the hearing to be made by audio recording, certified shorthand reporter, or other means adequate to permit preparation of a transcript, which any party may obtain at that party's expense.

F. Burden and Standard of Proof.

1. In a proceeding on the denial of an application, the applicant bears the burden of establishing entitlement to the permit or certificate by a preponderance of the evidence.
2. In a proceeding to suspend or revoke a permit or exception certificate, or to impose a moratorium period, the City bears the burden of proof by a preponderance of the evidence, except as provided in Subsection F.3.
3. The following shall be established by clear and convincing evidence: a finding that a person committed a Disqualifying Offense where that finding is not based on a conviction; a finding supporting imposition of a moratorium period; and a finding supporting revocation of an Indefinite Exception Certificate.

- G. Decision on Appeal. Within fifteen days after the close of the hearing, the Chief of Police shall issue a written decision that includes the grounds alleged, findings on each material factual issue, the evidence relied upon in support of each finding, the legal conclusions drawn from those findings, and the action taken and its effective date. Where a suspension, revocation, or moratorium period is imposed, the decision shall also state why a lesser sanction would not adequately protect the public. The Chief of Police may affirm, reverse, or modify the decision, or remand the matter to the Reviewing Officer for further investigation and a new decision.
- H. Service. Notices and decisions under this Section shall be served personally or by first-class mail, postage prepaid, addressed to the applicant, permittee, or certificate holder at the service address stated in the application or, if none, at the last known address, and to a property owner at the address shown on the latest county assessment roll. Service by mail is complete upon deposit, and any period measured from service runs from the date of deposit or the date of personal delivery, whichever occurs first.
- I. Effect Pending Appeal. A permit or exception certificate in effect when a decision under Subsection B.2 is served remains in effect until the decision becomes final under this Section, except where summarily suspended under Subsection J.
- J. Summary Suspension. Notwithstanding Subsections E.1 and I, the Reviewing Officer may summarily suspend a massage establishment permit or an exception

certificate, effective upon service of written notice, upon a written finding that continued operation presents an immediate threat to the public health or safety, including reason to believe that human trafficking or a Disqualifying Offense is occurring on the premises or in connection with the business. The notice shall state the grounds and shall set an appeal hearing before the Chief of Police to be held within ten days after service unless the permittee or certificate holder requests a later date. The Chief of Police shall issue a decision within five days after the close of that hearing.

- K. **Finality and Judicial Review.** A decision under Subsection G is final and not subject to further administrative appeal. Judicial review shall be governed by Code of Civil Procedure Section 1094.5 and shall be sought within the time provided by Code of Civil Procedure Section 1094.6 and Chapter 1.30 of this Code. Section 1.30.050 of this Code does not apply to decisions under this Chapter.

5.76.170 Responsibility for Compliance.

All permittees, owners, or operators of the massage establishment shall be jointly and severally responsible for the conduct of all massage establishment employees, independent contractors, or other representatives while such persons are on the premises of the massage establishment or providing outcall massage services on behalf of the massage establishment.

5.76.180 Violations—Moratorium.

- A. Upon a final decision revoking a Massage Establishment Permit, the massage establishment shall immediately cease operation.
- B. The Reviewing Officer, as part of a decision revoking a Massage Establishment Permit, or the Chief of Police on appeal, may order that no massage establishment be permitted to operate at the premises for a period of not more than one year from the effective date of the revocation (the “moratorium period”), provided that the notice requirements of Section 5.76.160.B.2 are satisfied and the findings required by Subsection C are made in writing and served on the permittee and the property owner.
- C. A moratorium period may be ordered only upon a finding, supported by the evidence presented, that the moratorium is necessary to prevent the recurrence at the premises of the conduct that gave rise to the revocation. In making that determination, the Reviewing Officer, and the Chief of Police on appeal, shall consider all of the following: (i) the nature and gravity of the conduct, and whether it involved human trafficking, a Disqualifying Offense, or a pattern of violations; (ii) whether the property owner knew or, in the exercise of reasonable diligence, should have known of the conduct that led to the revocation of the Massage Establishment Permit; (iii) what action, if any, the property owner took upon learning of the conduct, including any action to terminate the tenancy or abate the conduct; and (iv) whether a shorter moratorium period, or conditions imposed on a future

massage establishment at the premises in lieu of a moratorium, would adequately protect the public.

- D. In addition to any other remedy available to the City under applicable law, a Massage Establishment Permit may not be renewed or amended until all unpaid citations issued for violations of this Chapter are paid in full and all outstanding violations have been corrected. If a renewal application is pending and the permittee has not paid or corrected within thirty days after written notice from the Reviewing Officer, the Reviewing Officer may deny the renewal.
- E. While a decision suspending or revoking a Massage Establishment Permit is pending appeal or is in effect, the Reviewing Officer shall not accept or approve an application for a Massage Establishment Permit at the same premises. This restriction ends on the earliest of the following:
1. Withdrawal or reversal of the decision;
 2. A final decision under Section 5.76.160 that does not revoke the permit, and the end of any suspension imposed by that decision; or
 3. The expiration of any moratorium period imposed under Subsection B, or, if none is imposed, the effective date of the revocation.

5.76.190 Violations a Public Nuisance—Penalties, Nuisance Abatement, and Other Remedies.

- A. Any massage establishment operated, conducted, or maintained contrary to the provisions of this Chapter is unlawful and a public nuisance, and the City Attorney or District Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal, and enjoinder thereof, in the manner provided by law. Such remedies shall be in addition to any other judicial and administrative penalties and remedies available to the City under this Code or under state law.
- B. Penalties. The penalties established by Chapter 1.28 of this Code apply to violations of this Chapter .

5.76.200 Prohibited Conduct.

- A. No person shall touch the genitals or anal region of another person while providing massage therapy services, whether at a massage establishment or through an outcall massage service, and whether or not the contact is made through clothing, draping, or other covering.
- B. No person shall provide massage therapy services while under the influence of any alcoholic beverage or controlled substance.
- C. No person shall consume any alcoholic beverage or controlled substance on the premises of a massage establishment during business hours or at any time while massage therapy services are being provided, and no person shall sell, serve, or

furnish any alcoholic beverage to another person at those times. This Subsection C does not prohibit the lawful use of a drug prescribed to the user, or the storage or consumption of an alcoholic beverage in a home based massage establishment in an area not held open to patrons, provided Subsection B is not violated.

D. No storage or sale of sexually oriented material or sexually oriented merchandise shall be permitted within a massage establishment.

E. The operator of a massage establishment shall not permit any violation of this Section on the premises or in connection with an outcall massage service.

5.76.210 Severability.

The severability provisions contained in Title 1, Section 1.01.020 of this Code apply to this Chapter. If any provision of this Chapter is held invalid, unconstitutional, preempted, or otherwise unenforceable, such decision shall not affect the remaining provisions, which shall remain in full force and effect.