

ORDINANCE NO. 2152-C-S

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH REPEALING AND REENACTING CHAPTER 19 OF TITLE 5 OF THE ANTIOCH MUNICIPAL CODE CONCERNING MASSAGE ESTABLISHMENTS

The City Council of the City of Antioch does ordain as follows:

Section 1. Chapter 19 of Title 5 of the Antioch Municipal Code is hereby repealed and reenacted to read as follows:

5-19.01 PURPOSE AND INTENT.

The City Council finds and declares as follows:

(A) In enacting this chapter, the City Council recognizes that commercial massage therapy is a professional pursuit which can offer the public valuable health and therapeutic services. The City Council further recognizes that, unless properly regulated, the practice of massage therapy and the operation of massage businesses may be associated with unlawful activity and pose a threat to the quality of life in the local community. Accordingly, it is the purpose and intent of this chapter to protect the public health, safety, and welfare by providing for the orderly regulation of businesses providing massage therapy services, discouraging prostitution and related illegal activities carried on under the guise of massage therapy, and establishing certain sanitation, health, and operational standards for massage businesses.

(B) Furthermore, it is the purpose and intent of this chapter to address the negative impacts identified in the City Council's findings to reduce or prevent neighborhood blight and to protect and preserve the quality of city neighborhoods and commercial districts and to enhance enforcement of criminal statutes relating to the conduct of operators and employees of massage businesses.

(C) It is the Council's further purpose and intent to rely upon the uniform statewide regulations applicable to massage practitioners and establishments that were enacted by the State Legislature in 2008 as California Business and Professions Code Sections 4600 et seq. by Senate Bill 731, and amended in 2011 by Assembly Bill 619 and in 2014 by Assembly Bill 1147, to restrict the commercial practice of massage in the city to those persons duly certified to practice by the California Massage Therapy Council and to provide for the regulation of massage businesses for health and safety purposes to the extent allowed by law.

5-19.02 DEFINITIONS.

For the purposes of this chapter, unless the particular provision or the context otherwise clearly requires, the definitions in this section shall govern the construction, meaning, and application of words and phrases used in this chapter.

ACUPUNCTURE means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electro acupuncture, cupping, and moxibustion.

APPLICANT in the case of a massage establishment registration, means an individual, or if not an individual, the general partner, chief executive officers, chief advisor, or other person responsible for the ownership and operation of the massage establishment, who applies to obtain a registration under this chapter.

CALIFORNIA MASSAGE THERAPY COUNCIL or "**CAMTC**" means the massage therapy organization formed pursuant to California Business and Professions Code Section 4600.5.

CERTIFIED MASSAGE PRACTITIONER means any individual certified by the CAMTC as a certified massage therapist or as a certified massage practitioner pursuant to California Business and Professions Code Sections 4600 et seq.

CLIENT means the customer or patron who pays for or receives massage services.

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

EMPLOYEE means any owner, partner, operator, manager, supervisor or worker, whether paid or not, employed by a massage business who may render any service to the business, and who receives any form of compensation from the business.

HEALTH OFFICER means the person appointed by the City of Antioch pursuant to the California Health and Safety Code or his or her authorized representatives or designees.

MASSAGE or **MASSAGE THERAPY**, means and refers to any method of treating the external parts of the body for remedial, health, or hygienic purposes for any form of compensation by means of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, or stimulating the external parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances; or with or without supplementary aids, such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in this practice; or by baths, including but not limited to Turkish, Russian, Swedish, Japanese, vapor, shower, electric tub, sponge, mineral, fomentation, or any other type of bath.

MASSAGE ESTABLISHMENT means any business that offers massage therapy in exchange for compensation, whether at a fixed place of business or at a location designated by the customer or client through outcall massage services. Any business that offers any combination of massage therapy and bath facilities—including, but not limited to, showers, baths, wet and dry heat rooms, pools and hot tubs—shall be deemed a massage business under this chapter.

OPERATOR means any and all owners of a massage business.

OUTCALL MASSAGE means the engaging in or carrying on of massage therapy for compensation in a location other than the business operations address set forth in the massage business's registration.

OWNER means any of the following persons:

(1) Any person who is a general partner of a general or limited partnership that owns a massage business.

(2) Any person who has five percent (5%) or greater ownership interest in a corporation that owns a massage business.

(3) Any person who is a member of a limited liability company that owns a massage business.

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

PERSON means any individual, firm, association, partnership, co-partnership, joint stock company, corporation, joint venture, limited liability company, or combination of individuals of whatever form or character.

POLICE DEPARTMENT means the unit or person(s) designated by the Police Chief to administer this chapter.

RECEPTION AREA and **WAITING AREA** means an area immediately inside the front door of the massage business dedicated to the reception and waiting of patrons of the massage business and visitors, and which is not a massage therapy room or otherwise used for the provision of massage therapy services.

REGISTRATION means the registration to engage in the practice or business of massage therapy as required by this chapter.

REGISTRANT means any person possessing a registration required and issued under this chapter.

SCHOOL OF MASSAGE means any school or institution of learning that is recognized as an approved school pursuant to California Business and Professions Code Division 2, Chapter 10.5, as currently drafted or as may be amended.

SOLE PROPRIETORSHIP means and includes any legal form of business organization where the business owner (sometimes referred to as the "sole proprietor") is the only person employed by that business to provide massage services.

SOLICIT means to request, ask, demand or otherwise arrange for the provision of services.

5-19.03 CAMTC CERTIFICATION REQUIRED.

It shall be unlawful for any individual to practice massage therapy for compensation as a sole proprietorship or employee of a massage business or in any other capacity with the City of Antioch unless that individual is a certified massage practitioner.

5-19.04 MASSAGE ESTABLISHMENT REGISTRATION.

(A) Except as otherwise provided in Section 5-19.05, it shall be unlawful for any person to engage in, conduct, carry on, or permit to be engaged in, conducted or carried on, in or upon any premises within the city, the operation of a massage establishment without first having obtained a massage establishment registration issued by the Police Department pursuant to this chapter. A separate registration shall be obtained for each separate massage establishment.

(B) A registration issued under this chapter does not authorize the registrant to practice massage therapy until the registrant has complied with all business license requirements, zoning/planning requirements, and all other applicable federal, state, and city laws or regulations.

5-19.05 REGISTRATION EXCEPTIONS.

The registration requirements of this chapter shall not apply to the following persons while engaged in the performance of their duties:

(A) Physicians, surgeons, chiropractors, osteopaths, nurses, physical therapists, or acupuncturists who are duly licensed to practice their respective professions of the state.

(B) Barbers beauticians, cosmetologists, and estheticians who are duly licensed under the laws of the state while engaging in practices within the scope of their licenses.

(C) Hospitals, nursing homes, sanitariums, or any other health facility duly licensed by the state.

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

(E) Trainers of amateur, semi-professional or professional athletes or athletic teams while engaging in their training responsibilities for and with athletes and trainers working in conjunction with a specific athletic event such as road races, track meets, triathlons, biathlons, or similar single occurrence athletic or recreational events.

5-19.06 MASSAGE ESTABLISHMENT REGISTRATION APPLICATION AND FEE.

(A) Each applicant for a massage establishment registration shall file a written application with the Police Department on a form provided by the Police Department.

(B) Each application shall be accompanied by a nonrefundable fee, in an amount established in the resolution approving the Master Fee Schedule. The application fee shall be used to defray the costs of processing the investigation and report, and is not made in lieu of any other fees or taxes required under this code. In addition, applicants are required to make payment to the Department of Justice for fingerprinting services as required by this chapter. A copy of the receipt for the nonrefundable fee shall accompany the application.

(C) Each applicant shall submit the following information in the application under penalty of perjury:

- (1) Legal name of the massage business.
- (2) The present or proposed address and telephone number where the massage business is to be conducted.
- (3) Legal names, including all names used presently or in the past, of all owners of the massage business.
- (4) A list of all of the massage business's employees and independent contractors who are performing massage and their CAMTC certifications.
- (5) Residence address and telephone number of all owners of the massage business.
- (6) Business address and telephone number of all owners of the massage business.
- (7) The form of business under which the massage business will be operating (i.e. corporation, general or limited partnership, limited liability company, or other form).
- (8) Each owner or operator of the massage business who is not a CAMTC-certified massage practitioner shall submit an application for a background check, including the following: the individual's business, occupation, and employment history for the five years preceding the date of the application; the inclusive dates of such employment history; the name and address of any massage business or similar business owned or operated by the individual whether inside or outside the County of Contra Costa and its incorporated cities.
- (9) For all owners, a valid and current driver's license and/or identification issued by a state or federal governmental agency or other photographic identification bearing a bona fide seal by a foreign government.
- (10) For all owners, a signed statement that all of the information contained in the application is true and correct; that all owners shall be responsible for the conduct of the business's employees or independent contractors providing massage services; and acknowledging that failure to comply with the California Business and Professions Code Sections 4600 et seq., and local, state, or federal law, or the provisions of this chapter may result in revocation of the massage establishment's registration.

5-19.07 APPLICATION REVIEW.

Upon receipt of an application, the Police Department shall review the application and supplementary material. If it is clear from the face of the application and supplementary material that the applicant is not qualified for the registration sought pursuant to the requirements and standards of this chapter, or if the required fee has not been paid, the application may be denied without further investigation. If it appears from the face of the application and supplementary material that the applicant may be eligible for the registration sought, the Police Department shall verify the information submitted by the applicant and shall further investigate the qualifications of the applicant as follows:

- (A) The Police Department shall receive a full set of the applicant's fingerprints from a qualified private fingerprinting service, at the applicant's sole expense. Upon

receipt of the applicant's fingerprints, the Police Department shall review the criminal history (if any) of the applicant.

(B) The Police Department may conduct additional investigations in a manner authorized by law when necessary to determine if the applicant meets the qualifications for a registration pursuant to this chapter.

5-19.08 REGISTRATION ISSUANCE OR DENIAL.

(A) The Police Department shall issue or deny the application for a massage establishment registration within sixty (60) days of a completed application. When necessary, the Police Department may extend the time to issue or deny the application.

(B) In addition to any other section of this chapter, the Police Department shall deny a registration if any of the following circumstances exist:

(1) The application is incomplete and/or required supplementary material is not submitted within thirty (30) days of the date the material is requested.

(2) The applicant has previously had a massage establishment registration or any similar license, certificate, or registration revoked by the city or any public agency during the seven (7) years preceding the date of the application.

(3) The applicant has made a material misrepresentation in the application or supplementary material submitted with the application.

(4) The applicant has been successfully prosecuted under the Red Light Abatement Act (California Penal Code Sections 11225, et seq.) or any similar law in another jurisdiction during the seven (7) years preceding the date of the application.

(5) The applicant has been convicted of conduct that requires registration under Cal. Penal Code Section 290; conduct which is in violation of California Penal Code Sections 220, 245.3, 345.5, 261, 264.1, 266(e), 266(h), 266(i), 314, 315, 316, 318, 647(a), 647(b), 647(d), 653.22, or 653.23; any other crime involving dishonesty, fraud, deceit, violence, or moral turpitude; conspiracy or attempt to commit any of the aforementioned designated offenses; convictions to a charge of a violation of California Penal Code Sections 415 and 602, or any lesser included or related offense, in satisfaction of, or as substitute for any of the previously listed crimes, or any crime committed while engaged in the ownership of a massage establishment or the practice of massage therapy; convictions that have been expunged and convictions under the laws of other jurisdictions that proscribe the same or similar conduct as the previously listed crimes; or conviction of California Health and Safety Code Section 11550 or any offense involving the illegal sale, distribution, or possession of a controlled substance specified in California Health and Safety Code Sections 11054, 11055, 11056, 11057, or 11058 during the seven (7) years preceding the date of the application.

(C) If prosecution is pending against the applicant for either conduct listed in Paragraph (B) of this section, the Police Department may postpone the decision on the application until the final resolution of the prosecution is reached. As used in this chapter, prosecution means charges filed by the District Attorney, administrative proceedings brought by a local government or agency, or a civil action maintained by the City Attorney.

(D) The Police Department may postpone a decision on license or registration application until the city receives the applicant's fingerprint review results from the Department of Justice.

(E) The Police Department shall give written notice of the grounds for denial to the applicant personally or by first class mail, postage prepaid, at the address provided on the application. The notice shall advise the applicant of the right to request a hearing as provided in this chapter.

5-19.09 HEARING ON DENIAL OF REGISTRATION.

If a registration for a massage establishment is denied, an applicant may, within fourteen (14) calendar days after such action is taken, request a hearing before the Board of Administrative Appeals pursuant to Chapter 4 of Title 1 of the Municipal Code, at which time evidence will be received for the purpose of determining whether the action of the Police Department in denying the issuance of an annual registration should be sustained or reversed.

5-19-10 APPEAL OF DENIAL OF REGISTRATION.

Judicial review shall be available as established in Government Code Section 53069.4 and pursuant to Section 1-4.04 of this code.

5-19.11 OPERATING REQUIREMENTS.

Every massage establishment shall comply with the standards established by the Contra Costa County Health Services. No person shall engage in, conduct, carry on, or permit any massage within the City of Antioch unless all of the following requirements are met:

(A) CAMTC certification shall be worn by and clearly visible on the massage practitioner's person during working hours and at all times when the massage practitioner is inside a massage business or providing outcall massage.

(B) Massage shall be provided or given only between the hours of 7:00 a.m. and 9:00 p.m. No massage establishment shall be open and no massage shall be provided between 9:00 p.m. and 7:00 a.m. A massage commenced prior to 9:00 p.m. shall nevertheless terminate at 9:00 p.m., and all clients shall exit the premises at that time. It is the obligation of the massage business to inform clients of the requirement that services must cease at 9:00 p.m.

(C) A list of the services available and the cost of such services shall be posted in the reception area within the massage premises, and shall be described in readily understandable language. Outcall service providers shall provide such a list to clients in advance of performing any service. No owner, manager, operator, or responsible managing employee shall permit any service other than those posted or listed as required herein, nor shall an operator or a massage practitioner request or charge a fee for any service other than those on the list of services available and posted in the reception area or provided to the client in advance of any outcall services.

(D) A copy of the CAMTC certificate of each and every massage practitioner employed in the business shall be displayed in the reception area or similar open public place on the premises. CAMTC certificates of former employees and/or contractors shall be removed as soon as those massage practitioners are no longer employed by or offering services through the massage business.

(E) For each massage service provided, every massage business shall keep a complete and legible written record of the following information: the date and hour that service was provided; the service received; the name or initials of the employee entering the information; and the name of the massage practitioner administering the service. Such records shall be open to inspection and copying by the Police Department, may not be used by any massage practitioner or operator for any purpose other than as records of service provided and may not be provided to other parties by the massage practitioner or operator unless otherwise required by law. Such records shall be retained on the premises of the massage business for a period of two (2) years and be immediately available for inspection during business hours.

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

(G) Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bath rooms, tanning booths, whirlpool baths and pools shall be thoroughly cleaned and disinfected as needed, and at least once each day the premises are open, with a disinfectant approved by the Health Officer. Bathtubs shall be thoroughly cleaned after each use with a disinfectant approved by the Health Officer. All walls, ceilings, floors, and other physical facilities for the business must be in good repair, and maintained in a clean and sanitary condition.

(H) Instruments utilized in performing massage shall not be used on more than one client unless they have been sterilized, using approved sterilization methods.

(I) All massage business operators and their employees, including massage practitioners, shall wear clean, non-transparent outer garments. Such garments shall not expose their genitals, pubic areas, buttocks, or chest, and shall not be worn in such manner as to expose the genitals, pubic areas, buttocks, or chest. For the purposes of this section, outer garments means a garment worn over other garments and does not include garments like underwear, bras, lingerie or swimsuits.

(J) No person shall enter, be, or remain in any part of a massage business while in possession of an open container of alcohol, or consuming or using any alcoholic beverage or drugs except pursuant to a prescription for such drugs. The owner, operator, responsible managing employee, or manager shall not permit any such person to enter or remain upon such premises.

(K) No massage business shall operate as a school of massage, or use the same facilities as that of a school of massage.

(L) No massage business shall place, publish or distribute, or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective clients that any service is available other than those services listed as an available service pursuant to this chapter, nor shall any massage business employ language in the text of such advertising that would reasonably suggest to a prospective client that any service is available other than those services as described in compliance with the provisions of this chapter.

(M) No massage shall be given unless the client's genitals are, at all times, fully covered. A massage practitioner shall not, in the course of administering any massage, make physical contact with the genitals or private parts of any other person regardless whether the contact is over or under the person's clothing.

(N) Where the massage establishment has staff available to assure security for clients and massage staff are behind closed doors, the entry to the reception area of the massage business shall remain unlocked during business hours when the business is open for business or when clients are present.

(O) No massage business located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area shall, during business hours, block visibility into the interior reception and waiting area through the use of curtains, closed blinds, tints, or any other material that obstructs, blurs, or unreasonably darkens the view into the premises. For the purpose of this subsection, there is a non-rebuttable presumption that the visibility is impermissibly blocked if more than ten percent (10%) of the interior reception and waiting area is not visible from the exterior window.

(P) All signs shall be in conformance with the current ordinances of the City of Antioch.

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

(R) Ventilation shall be provided in accordance with applicable building codes and regulations.

(S) Hot and cold running water shall be provided at all times.

(T) Adequate dressing, locker, and toilet facilities shall be provided for clients.

(U) A minimum of one (1) wash basin for employees shall be provided at all times. The basin shall be located within or as close as practicable to the area devoted to performing of massage services. Sanitary towels shall also be provided at each basin.

(V) All massage businesses shall comply with all state and federal laws and regulations for handicapped clients.

(W) A massage establishment shall operate only under the name specified in its registration issued under this chapter.

(X) No massage business shall allow any person to reside within the massage business or in attached structures owned, leased, or controlled by the massage business.

(Y) Other than custodial or maintenance staff, no persons shall be permitted within the premises of a massage business between the hours of 11:00 p.m. and 6:00 a.m.

5-19.12 INSPECTION BY OFFICIALS.

The investigating and enforcing officials of the City of Antioch, including, but not limited to, the Police, Health Officer, Code Enforcement Official, and Building Official, or their designees, shall have the right to enter the premises from time to time during regular business hours for the purpose of making reasonable inspections to observe and enforce compliance with building, fire, electrical, plumbing or health regulations, and to enforce compliance with applicable regulations, laws, and statutes, and with the provisions of this chapter. The massage business may be charged a fee for any safety inspections. The City may charge registrants for the cost of inspections in amounts established in the Master Fee Schedule.

5-19.13 NOTIFICATIONS.

(A) A registrant shall report to the Police Department any of the following within ninety-six (96) hours of the following occurrences:

(1) Arrests of any employees, operators, or owners of the registrant's massage establishment for an offense other than a misdemeanor traffic offense.

(2) Resignations, terminations, or transfers of practitioners employed by the registrant's massage business.

(3) Any event involving the registrant's massage establishment or the massage practitioners employed therein that constitutes a violation of this chapter or state or federal law.

(B) This provision requires reporting to the Police Department even if the massage business believes that the Police Department has or will receive the information from another source.

5-19.14 GROUNDS FOR SUSPENSION OR REVOCATION OF REGISTRATION.

(A) The Police Department may revoke or suspend any registration under this chapter if any of the following are found:

(1) The registrant commits any act that violates Business and Professions Code section 4609.

(2) The registrant does not possess the qualifications for the registration as required by this chapter.

(3) The registrant has been convicted of or found liable for any violation of this chapter.

(4) There is fraud, material misrepresentation, false statement, or omission of material fact in any application for a registration or in any supplemental material.

(5) An activity authorized in the registration has been conducted in an unlawful manner or in such a manner as to constitute a menace to the health, safety, or general welfare of the public.

(B) For purposes of this section, registrant, in the case of a massage establishment, shall include the managing responsible officer or managing employee.

(C) Prior to the suspension or revocation of any registration issued pursuant to this chapter, the Police Department shall give written notification of the suspension or revocation of the registration(s) to the registrants(s) personally or by first class mail, postage prepaid, at the address provided on the registration application. This notice shall advise the registrant of the right to request a hearing as provided in this chapter.

(D) The suspension or revocation shall take effect immediately upon the Board of Administrative Appeals' decision affirming of the suspension or revocation of, if no appeal of the notice of revocation or suspension is filed, upon the expiration of the appeal period for challenging the notice. The filing of an appeal of the Board of Administrative Appeals' decision to the City Council shall not stay or delay the effectiveness of the suspension or resignation. The filing of a petition for writ of mandamus challenging the City Council's affirmance of the Board of Administrative appeal shall not stay or delay the effectiveness of the suspension or resignation, unless upon proper motion or application, the court orders otherwise.

5-19.15 HEARING ON SUSPENSION OR REVOCATION OF REGISTRATION.

The registrant shall have fourteen (14) days from the date of the written notice of suspension or revocation of any registration issued pursuant to this chapter to file a written appeal with the Board of Administrative Appeals, pursuant to Chapter 4 of Title 1 of the Municipal Code. Evidence will be received at the hearing for the purpose of determining whether or not such registration shall be suspended or revoked, or whether the registration may be retained.

5-19.16 BURDEN OF PROOF.

Unless otherwise specifically prohibited by law, the burden of proof is on the applicant or registrant in any hearing or other matter under this chapter.

5-19.17 APPEAL OF SUSPENSION OR REVOCATION OF REGISTRATION.

If the Board of Administrative Appeals does not reverse the Police Department action in suspending or revoking the registration pursuant to this chapter, judicial review shall be available as established in California Government Code Section 53069.4 and pursuant to Section 1-4.04 of this code.

5-19.18 EFFECT OF REVOCATION OF REGISTRATION.

If a registration issued under this Chapter is revoked, no massage establishment shall be authorized to locate in the same location of the establishment where the registration was revoked for a period of 2 years from the effective date of the revocation. If the registrant is not also the legal owner of the real property on which the massage establishment is situated, notice of such revocation and the 2 year prohibition shall be

provided to the owner of record of the property as shown on the latest county assessment roll.

5-19.19 MINIMUM AGE REQUIREMENT.

(A) No person shall be employed in a massage therapy establishment or perform massage therapy or manage or hold ownership interest in a massage therapy establishment who is not at least eighteen (18) years of age.

(B) It is unlawful for the owner, proprietor, managing employee, or any other person in charge of any massage establishment to employ any person less than eighteen (18) years of age.

5-19.20 REGISTRATIONS NON-ASSIGNABLE.

No registration shall be sold, transferred, or assigned by registrant or by operation of law to any other person. Any such sale, transfer, assignment, attempted sale, attempted transfer, or attempted assignment shall constitute an immediate revocation of the registration and the registration shall thereafter be null and void.

5-19.21 CHANGE OF NAME OR LOCATION, EXPANSION OF BUILDING.

(A) No registrant shall operate under any name or conduct any massage establishment under any designation or location not specified in the registration.

(B) In the case of any proposed change of name, notification thereof shall be made to the Police Department at least thirty (30) days prior to the change. Any proposed name change is subject to the approval of the Police Department.

(C) Any proposed change of location of a massage establishment is subject to the approval of the Police Department, in addition to compliance with all city ordinances and regulations.

(D) Any application for an expansion of a building of a massage establishment shall require compliance with this chapter and all other applicable laws.

(E) In case of any change of location or expansion of the massage establishment, inspection thereof by the city's Building and/or Planning Department shall be made as required in this chapter within thirty (30) days of the application.

5-19.22 DISPLAY OF REGISTRATION.

The massage establishment registration shall be displayed in an open and conspicuous place on the premises where the massage establishment business is conducted.

5-19.23 RESPONSIBILITY OF REGISTRANT

It shall be the responsibility of the massage establishment registrant who has employed or subcontracted any person acting or purporting to act as a massage therapist

or the employer or contractor of any person acting or purporting to act as a massage therapist or anyone operating a massage establishment to ensure that all massage therapists comply with the requirements of this chapter and all laws. The massage establishment registrant or operator of a massage establishment shall be held responsible for the conduct of all persons on the premises that engage in providing the service of massage therapy. Any act or omission of the holder of the massage establishment registration or the operator of the massage establishment shall be deemed an act or omission of the holder of the massage establishment registration for the purposes of determining whether any license or registration may be revoked, suspended, or denied. Proof of knowledge of any violation of this section shall not be required for purposes of suspension, revocation or denial of such registration or license.

5-19.24 OUTCALL MASSAGE THERAPY REGISTRATION.

It shall be unlawful for any massage establishment or massage therapist to provide, or to offer to provide, massage therapy at any location except the place of business approved in the registration for a massage establishment or massage therapist. However, a massage establishment or massage therapist may obtain approval from the Police Department specifically authorizing outcall massage therapy services.

5-19.25 REGISTRATION DURATION AND RENEWAL.

(A) A registration shall be valid for one (1) year from the date of issuance, unless revoked or suspended.

(B) A registrant may apply for a renewal of a registration thirty (30) days prior to the expiration of the registration. If, upon the thirty-first (31st) day after the expiration of a registration, an application of renewal has not been received, the registration shall be deemed expired. Any registration issued under this chapter shall be returned to the Police Department within forty-eight (48) hours of its expiration. No privilege to provide massage therapy shall exist until an application for renewal has been granted. After a registration expires, a new application may be filed.

(C) Registrations may be renewed every year by filing an application for renewal under penalty of perjury updating information in the original application provided to the Police Department.

(D) To renew a registration under this chapter, the registrant shall pay the city a non-refundable fee in an amount set forth in the resolution approving the Master Fee Schedule. A copy of the receipt for the non-refundable fee shall accompany the application for renewal.

(E) After investigating the application for renewal, the Police Department may renew the registration if registrant continues to meet the requirements for issuance of a registration and none of the grounds for denial of a registration set forth in this chapter exist. The Police Department shall renew the registration within thirty (30) days of such request if the information upon which the original application was granted remains unchanged and no violations of this chapter have been committed.

5-19.26 CESSATION OF BUSINESS.

If at any time during the duration of a registration issued under this chapter, a registrant ceases to do business as a massage establishment, the registrant shall:

- (A) Return any registration issued under this chapter to the Police Department within five (5) business days.
- (B) Notify the Business License Department.

5-19.27 ENFORCEMENT.

(A) It is the duty of the Police Department to enforce rules and regulations in accordance with this chapter.

(B) Pursuant to the city's prosecutorial discretion, the city may enforce violations of the provisions of this chapter by criminal, civil, and/or administrative actions.

(C) Any massage business operated, conducted or maintained contrary to the provisions of this chapter shall constitute an unlawful business practice pursuant to California Business and Professions Code Section 17200 et seq., and the City Attorney or District Attorney may, in the exercise of discretion, in addition to or in lieu of taking any other action permitted by this chapter, commence an action or actions, proceeding or proceedings in the Superior Court of Contra Costa County, seeking an injunction prohibiting the unlawful business practice and/or any other remedy available at law, including but not limited to fines, attorneys fees and costs. All remedies provided for in this chapter are cumulative.

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

Section 2. CEQA Findings.

This project is exempt from environmental analysis under the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that the proposed amendments will not have a significant effect on the environment.

Section 3. Severability.

In the event any section or portion of this ordinance shall be determined to be invalid or unconstitutional, such section or portions shall be deemed severable and all other sections or portions hereof shall remain in force and effect.

Section 4. Effective Date and Publication.

This ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. The City Clerk shall cause the ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation or by publishing a summary of the proposed ordinance and posting a certified copy of the proposed ordinance in the

City Clerk's Office at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted and within fifteen (15) days after its adopting, publishing a summary of the ordinance with the names of the Council members voting for and against the ordinance.

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Antioch held on the 28th day of August, 2018 and passed and introduced at a regular meeting thereof, held on the 11th day of September 2018, by the following vote:


AYES: Council Members Wilson, Thorpe, Tiscareno, and Mayor Wright

NOES: None

ABSENT: Council Member Ogorchock



Sean Wright, Mayor of the City of Antioch

ATTEST:


Arne Simonsen, CMC, City Clerk of the City of Antioch