

CITY OF YUBA CITY  
STAFF REPORT

**Date:** March 21, 2017

**To:** Honorable Mayor & Members of the City Council

**From:** Police Department

**Presentation By:** Thomas Tappe, Police Commander

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**Summary**

**Subject:** Massage Ordinance Updates

**Recommendation:** Adopt the Massage Establishments and Massage Therapists Ordinance and waive the second reading

**Fiscal Impact:** The estimated cost to the city could be as much as \$3200 annually for staff time to issue permits for massage therapists. Massage business registration will cost approximately \$220 annually in staff time

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**Purpose:**

To further protect the public, support professionalism within the massage industry, and follow the intent of State law.

**Background:**

The City's existing ordinance regulating massage establishments and massage therapists was adopted in October of 2004. At that time, there was no comprehensive oversight or regulation by the State of massage businesses or therapists. The ordinance required therapists and establishments to be licensed by the police department on an annual basis. Massage Therapists were required to have a minimum of 200 hours of certified training and pass a limited background check. Massage businesses were also required to be licensed and abide by specific health and safety requirements.

In 2008, the State adopted the Massage Therapy Act into law which allowed for the creation of a quasi-State agency, the California Massage Therapy Council, (CAMTC). The CAMTC was authorized to license and provide oversight of massage professionals in California. With the creation of the CAMTC, massage professionals in Yuba City had the option to obtain a statewide license through CAMTC or a City license through the Yuba City Police Department. The CAMTC offered two licensing options, a Practitioner License at 250 hours of approved training and a Therapist License at 500 hours of training. CAMTC licenses are valid throughout the State and have a two-year term.

In 2014, with the passage of SB 1147, the State updated and amended the Massage Therapy Act as codified in sections 4600-4621 of the Business and Professions Code. The updated law eliminated the CAMTC Practitioner License as an option for new applicants and established a 500-hour minimum training requirement. The legislation provided additional guidance with regard to intended enforcement and oversight roles with the CAMTC regulating therapists and

local jurisdictions regulating businesses. The updated law included a statement of legislative intent in section 4600.5 (b);

“It is the intent of the Legislature that broad control over land use in regulating massage establishments be vested in local governments so that they may manage those establishments in the best interest of the individual community, and that the requirements and practice of the profession of massage therapy remain a matter of statewide concern, regulation, and oversight. Local governments should give strong consideration to establishing a registration program that grants local governments the ability to either suspend or revoke a registration of massage business for specific violations.”

In 2016, the State Legislature extended the provisions of the Massage Therapy Act to January 1, 2021 with the passage of AB 2194.

### **Analysis:**

After review of the Business and Professions Code sections 4600-4621 and other State laws and local ordinances related to the regulation of massage therapists and businesses in California, staff concluded it would be in the best interest of the public to update our City's municipal code ordinance to follow the intent of State law brought about by the Massage Therapy Act. Specifically, staff recommends the revised City ordinance require all licensing and oversight of massage therapists to be a responsibility of the CAMTC while licensing and oversight of massage businesses will continue to be the responsibility of the City.

These changes will allow for greater consistency in the licensing and oversight of massage therapists within Yuba City as they will now be regulated by one State authorized agency, the CAMTC. Furthermore, it is believed these changes will provide enhanced protections to the public and legitimate massage professionals from nefarious activity which can be associated with massage businesses including prostitution and human trafficking.

Throughout the process of drafting the revisions to the municipal code, staff consulted with representatives of the CAMTC for guidance and utilized the City of San Mateo's ordinance as the basis for our revised ordinance. CAMTC representatives recommended we use the City of San Mateo's ordinance as a guide because it had recently been enacted and effectively incorporated the changes brought about by the Massage Therapy Act. Staff also held a public meeting on November 17<sup>th</sup> 2016 with local massage professionals to discuss the impact of the proposed changes to the City's massage ordinance. It was apparent there would be a harmful effect on many local massage businesses and professionals by immediately requiring therapists to meet the CAMTC's licensing requirements, in particular the 500-hour training requirement, as the existing ordinance only required 200 hours of training.

On January 17 2017, an initial draft of the revised ordinance was discussed during a Yuba City City Council meeting. The draft included a Provisional License option for massage therapists who did not meet the CAMTC's training requirements. The Provisional License would have allowed these massage therapists to be licensed through the City Police Department for a term of two years following the passage of the revised ordinance. After that time, all licensing of massage therapists would be handled by the CAMTC. During the meeting, a concern was raised regarding CAMTC not recognizing the training hours of many of the local massage therapists. Staff was directed by the City Council to modify the revised ordinance to allow massage therapists who did not meet CAMTC's training requirements an option to be licensed under the revised ordinance. As a result, staff modified the revised ordinance by replacing the Provisional License option with an Exempt Therapist provision. The Exempt Therapist provision will allow therapists who do not meet the CAMTC's licensing requirements, but do meet the

licensing requirements under the existing ordinance, to receive a massage therapist permit issued by the Yuba City Police Department under the following criteria:

A person who has completed at least 200 hours of approved training and shows to the satisfaction of the City Police Department that he or she would have qualified for a massage therapist permit under the requirements of the previous massage ordinance.

Exempt Therapists will be required to renew their permits annually. Exempt Therapists who allow their permits to expire will not be eligible for a renewal. Persons must submit an application for an Exempt Therapist permit to the City Police Department prior to December 31<sup>st</sup> 2017 to be eligible for the Exempt Therapist permit.

The Police Department will send a notice via U.S. Mail regarding the revised ordinance and the above exemption to every person who had previously received a massage permit issued by the Police Department. The Police Department will also post this notice on the Department web site and work with Ms. Julie Stone in mailing the notice to graduates of her massage school.

### **Fiscal Impact:**

The revised ordinance does not include a provision to charge a fee for the issuance of massage therapist licenses or massage business permits. The estimated cost to the City could be as much as \$3200 annually to license massage therapists who qualify for an exemption. This figure is based on the number of massage therapist licenses issued by the police department since 2004, (137 licenses), and assumes 0.5 hrs of staff time per license at the step 4 sergeant's pay rate.

The estimated cost to the City to issue massage business permits will be approximately \$220 annually in staff time. This figure is based on the number of massage business permits issued by the police department since 2004, (19 permits), and assumes 0.5 hrs. of staff time per permit.

### **Alternatives:**

- 1) Do not repeal and reenact the massage ordinance.
- 2) Provide staff with direction for modifying the proposed ordinance.

### **Recommendation:**

Adopt the Massage Establishments and Massage Therapists Ordinance and waive the second reading.

### **Attachment:**

- Ordinance

### **Prepared By:**

/s/ Thomas Tappe

Thomas Tappe  
Police Commander

### **Submitted By:**

/s/ Steven C. Kroeger

Steven C. Kroeger  
City Manager

### **Reviewed By:**

Department Head  
Finance  
City Attorney

RL  
RB  
BY EMAIL

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUBA CITY  
REPEALING AND REENACTING CHAPTER 3 OF TITLE 5 TO THE YUBA CITY MUNICIPAL  
CODE REGARDING MESSAGE ESTABLISHMENTS AND MESSAGE THERAPISTS**

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

Section 1. Chapter 3 of Title 5 of the Yuba City Municipal Code is hereby repealed.

Section 2. Chapter 3 of Title 5 is hereby added to the Yuba City Municipal Code to read as follows:

CHAPTER 3

MESSAGE ESTABLISHMENTS AND MESSAGE THERAPISTS

Sections:

- 5-3.01 Purpose - Authority
- 5-3.02 Definitions
- 5-3.03 Exemptions
- 5-3.04 CAMTC Certification and Local Registration Required
- 5-3.05 Massage Business Registration
- 5-3.06 Operating Requirements
- 5-3.07 Inspection by Officials
- 5-3.08 Notifications
- 5-3.09 Unlawful Business Practices May be Enjoined; Remedies Cumulative
- 5-3.10 Suspension and Revocation of City Registration Certificates
- 5-3.11 Public Nuisance

Section 5-3.01 Purpose - Authority.

It is the purpose and intent of this chapter to provide for the orderly regulation of massage therapists and massage establishments, in the interest of the public health, safety and welfare. The City wishes both to recognize the practice of massage as a valid professional field and to discourage prostitution and other unlawful activity which otherwise may become associated with some massage establishments.

This chapter relies upon the uniform statewide certification process applicable to massage practitioners and establishments under California Business and Professions Code Section 4600 et seq. In addition, this chapter provides certain minimum standards for the operation of massage establishments, their managing employees, and massage practitioners.

This chapter is adopted under the authority of Government Code Sections 51030 through 51034.

Section 5-3.02 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.

(a) "Business" includes, but not by way of limitation, everything about which a person can be employed, and means that which occupies the time, attention, and labor of men and women for the purpose of producing a livelihood or profit, and connotes the efforts of men and women by varied and diverse methods of dealing with each other, to improve their individual economic conditions, and for the purposes of this chapter shall include, without limitation, the advertising and soliciting of massages. The term "business" includes, but is not limited to, a Massage Practitioner who is the sole owner, operator and employee of a Massage Business operating as a sole proprietorship, as well as a massage establishment which employs Massage Practitioners and therapists.

(b) "California Massage Therapy Council" or "CAMTC" means the Massage Therapy Organization formed pursuant to Business and Professions Code Section 4600.5.

(c) "Certified Massage Practitioner" means any individual certified by the California Massage Therapy Council as a Certified Massage Therapist or as a Certified Massage Practitioner pursuant to California Business and Professions Code Sections 4600 et seq.

(d) "Client" means the customer or patron who pays for or receives massage services.

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

(f) "City Manager" means the City Manager of the City of Yuba City, and his or her authorized representatives or designees.

(g) "City Registration Certificate" means a Registration Certificate issued by the Chief of Police upon submission of satisfactory evidence that a Massage Business employs or uses only certified Massage Practitioners pursuant to this chapter.

(h) "Chief of Police" means the Chief of Police of the City of Yuba City, and his or her authorized representatives or designees.

(i) "Employee" means any person employed by a Massage Business who may render any service to the business, and who receives any form of compensation from the business.

(j) "Exempt Therapist" means a person who meets the following criteria:

A person who has completed at least 200 hours of approved training and shows to the satisfaction of the City police department that he or she would have qualified for a massage therapist permit under the requirements of the previous massage ordinance.

A person who is an Exempt Therapist shall comply with all the requirements of this chapter, except for the state certification requirements. Exempt Therapists must apply for and receive a permit through the City police department to practice as a massage therapist. Exempt Therapists will be subject to a suspension or revocation of their permit as described in Section 5-3.10. Exempt Therapists must renew their permits annually. Exempt Therapists who allow

their license to expire will not be eligible for a renewal. Persons must submit an application for an Exempt Therapist permit to the City police department prior to December 31, 2017 to be eligible for the Exempt Therapist permit.

(k) "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.

(l) "Massage Business" 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. The term "Massage Business" includes a certified Massage Practitioner who is the sole owner, operator and employee of a Massage Business operating as a sole proprietorship.

(m) "Operator" or "Massage Business operator" means any and all owners of a Massage Business.

(n) "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 City Registration Certificate.

(o) "Owner" or "Massage Business 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 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 or greater ownership interest in any other type of business association that owns a Massage Business.

(p) "Permit" means the Permit required by this chapter to practice massage as an Exempt Therapist.

(q) "Person" means any individual, firm, association, partnership, corporation, joint venture, limited liability company, or combination of individuals.

(r) "Practitioner" or "Massage Practitioner" shall be used interchangeably and mean any person who administers massage to another person, for any form of consideration (whether for the massage, as part of other services or a product, or otherwise).

(s) "Reception 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.

(t) "Registration" means the registration required by this chapter to operate a Massage Business.

(u) "School of massage" means any school or institution of learning that is recognized as an approved school pursuant to Business and Professions Code Division 2, Chapter 10.5, as currently drafted or as may be amended.

(v) "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.

(w) "Solicit" means to request, ask, demand or otherwise arrange for the provision of services.

#### Section 5-3.03 Exemptions.

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

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

(b) Barbers and cosmetologists who are duly licensed under the laws of the State of California while engaging in practices within the scope of their licenses, except that this provision shall apply solely to the massaging of the neck, face and/or scalp, hands or feet of the clients.

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

(d) Accredited high schools, junior colleges, and 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.

(f) Individuals administering massages or health treatment involving massage to persons participating in single-occurrence athletic, recreational or festival events, such as health fairs, road races, track meets, triathlons and other similar events; provided, that all of the following conditions are satisfied:

(1) The massage services are made equally available to all participants in the event;

(2) The event is open to participation by the general public or a significant segment of the public such as employees of sponsoring or participating corporations;

(3) The massage services are provided at the site of the event and either during, immediately preceding or immediately following the event;

(4) The sponsors of the event have been advised of and have approved the provisions of massage services;

(5) The persons providing the massage services are not the primary sponsors of the event.

**Section 5-3.04 CAMTC Certification and Local Registration Required.**

(a) Individuals. 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 Yuba City unless that individual is a Certified Massage Practitioner or an Exempt Therapist.

(b) Businesses. It shall be unlawful for any business to provide massage for compensation within the City of Yuba City unless all individuals employed by the Massage Business to perform massage, whether as an employee, independent contractor or sole proprietorship, are Certified Massage Practitioners or Exempt Therapists and said business has obtained a valid City Registration Certificate as provided in this chapter.

**Section 5-3.05 Massage Business Registration.**

(a) Application. The registration application for a City Registration Certificate shall include all of the following:

(1) Legal name of the Massage Business.

(2) Address and telephone number of the Massage Business.

(3) Legal names 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 certification or valid City Permit.

(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 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 within the City of Yuba City.

(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 business's City Registration Certificate.

(b) Issuance. Upon provision by the Massage Business of the foregoing documentation, the Chief of Police shall issue the Massage Business a City Registration Certificate, which shall be valid for two years from the date of issuance. No reapplication will be accepted within one year after an application or renewal is denied or a certificate is revoked. City Registration Certificates shall not be issued to a Massage Business seeking to operate at a particular location if another Massage Business is or was operating at that particular location and that Massage Business is currently serving a suspension or revocation pursuant to Section 5-3.10, during the pendency of the suspension or one year following revocation.

(c) Amendment. A Massage Business shall apply to the City to amend its City Registration Certificate within 30 days after any change in the registration information, including, but not limited to, the hiring or termination of certified Massage Practitioners, the change of the business's address, or changes in the owner's addresses and/or telephone numbers.

(d) Renewal. A Massage Business shall apply to the City to renew its City Registration Certificate at least 30 days prior to the expiration of said City Registration Certificate. If an application for renewal of a City Registration Certificate and all required information is not timely received and the certificate expires, no right or privilege to provide massage shall exist.

(e) Fees. There shall be no fee for the registration application or certificate, or any amendment or renewal thereof. The provisions of this section shall not prevent the City from establishing fees for safety inspections as may be conducted from time to time by the Chief of Police, and for the background checks, fingerprinting, and subsequent arrest notification for owners of a Massage Business who are not CAMTC-certified and who are subject to such background checks pursuant to this chapter. In addition, this section shall not prevent the City from requiring a business license and business license tax for the operation of a Massage Business pursuant to Chapter 4 of Title 3 of this Code.

(f) Transfer. A City Registration Certificate shall not be transferred except with the prior written approval of the Chief of Police. A written request for such transfer shall contain the same information for the new ownership as is required for applications for registration pursuant to this section. In the event of denial, notification of the denial and reasons therefor shall be provided in writing and shall be provided to the applicant by personal delivery or by registered or certified mail. A City Registration Certificate may not be transferred during any period of suspension or one year following revocation pursuant to Section 5-3.10.

#### Section 5-3.06 Operating Requirements.

No person shall engage in, conduct, carry on, or permit any massage within the City of Yuba City 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 6:00 a.m. and 10:00 p.m. No Massage Business shall be open and no massage shall be provided between 10:00 p.m. and 6:00 a.m. A massage commenced prior to 10:00 p.m. shall nevertheless terminate at 10:00 p.m., and, in the case of a Massage Business, 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 10:00 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, and no Massage Practitioner shall offer or perform, 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 or valid City Permit 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 police officers, or 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 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. Said 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 Section 5-3.06 (c), 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 business 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 an irrebuttable presumption that the visibility is impermissibly blocked if more than 10 percent 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 Yuba City.

(q) Minimum lighting consisting of at least one artificial light of not less than 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 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 Practitioner shall operate only under the name specified in his or her CAMTC certificate. A Massage Business shall operate only under the name specified in its City Registration Certificate.

(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 5:00 a.m.

#### Section 5-3.07 Inspection by Officials.

The investigating and enforcing officials of the City of Yuba City, including, but not limited to, the police and Director of Development Services, 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.

#### Section 5-3.08 Notifications.

(a) A Massage Business shall notify the Chief of Police of any changes described in Section 5-3.05 pursuant to the timelines specified therein.

(b) A registrant shall report to Chief of Police any of the following within 96 hours of the occurrence:

(1) Arrests of any employees or owners of the registrant's Massage Business 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 Business or the Massage Practitioners employed therein that constitutes a violation of this chapter or state or federal law.

(c) This provision requires reporting to the Chief of Police even if the Massage Business believes that the Chief of Police has or will receive the information from another source.

Section 5-3.09 Unlawful Business Practices May be Enjoined; Remedies Cumulative.

Any Massage Business operated, conducted or maintained contrary to the provisions of this chapter shall constitute an unlawful business practice pursuant to Business and Professions Code Section 17200 et seq., and the City Attorney or District Attorney may, in 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 Sutter 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 and Code are cumulative.

Section 5-3.10 Suspension and Revocation of City Registration Certificates and Exempt Therapist Permits.

(a) City Registration Certificates and Permits may be suspended or revoked by the Chief of Police upon finding any of the following grounds:

(1) A Massage Practitioner is no longer in possession of current and valid CAMTC certification or valid City Permit. This subsection shall apply to a sole proprietor or a person employed or used by a Massage Business to provide massage.

(2) An owner, sole proprietor or Massage Practitioner fails to register under the provisions of California Penal Code Section 290 (sex offender registration), is convicted of California Penal Code Sections 266i (pandering), 315 (keeping or residing in a house of ill-fame), 316 (keeping disorderly house), 318 (prevailing upon person to visit a place for prostitution), 647(b) (engaging in or soliciting prostitution), 653.22 (loitering with intent to commit prostitution), 653.23 (supervision of prostitute); has a business permit or license denied, revoked, restricted, or suspended by any agency, board, city, county, territory, or state; is subject to an injunction for nuisance pursuant to California Penal Code Sections 11225—11235 (red light abatement); is convicted of a felony offense involving the sale of a controlled substance; is convicted of any crime involving dishonesty, fraud, deceit, violence, or moral turpitude; or is convicted in any other state of an offense which, if committed in this state, would have been punishable as one or more referenced offenses in this subsection.

(3) The City determines that a material misrepresentation was included on the application for a City Registration Certificate or Permit at registration or renewal.

(4) Violations of any of the following occurred on the premises of a Massage Business or were committed by a Massage Practitioner: California Business and Professions Code Sections 4600 et seq.; any local, state, or federal law; or the provisions of this chapter.

(b) Procedures. Written notice of the suspension or revocation shall be served on the sole proprietor or owners by personal service or certified mail with the legal violation and supporting facts. The notice shall contain an advisement of the right to request an appeal hearing before the Police Chief.

(c) Time Period of Suspension of Permit. The Chief of Police may suspend a City Registration Certificate or Permit for a period between five days and the end of the license term, at his or her discretion.

(d) Effective Date of Suspension or Revocation. Suspension or revocation issued pursuant to subsection (b) of this section will be effective 10 days from the date appearing on the order, unless a timely appeal is filed in accordance with subsection (e) of this section.

(e) Appeal.

(1) The decision of the Chief of Police is appealable to the City Manager.

(2) An appeal must be in writing, and be hand-delivered or mailed to the City Manager's office.

(3) An appeal must be received by the City Manager on or before the effective date of suspension or revocation provided by subsection (d) of this section.

(4) The filing of a timely appeal will stay a suspension or revocation pending a decision on the appeal by the City Manager.

(5) A hearing shall be scheduled before the City Manager within 30 days. Either the appellant or the Police Chief may request, in writing directed to the City Manager, a continuance of the hearing. Such requests must be supported by good cause. The decision whether to grant a continuance is at the discretion of the City Manager, who shall consider whether granting the continuance poses a threat to public health or safety in light of the severity of the violations alleged.

(6) The decision of the City Manager shall be final, with no further administrative right of appeal or reconsideration. The City Manager may sustain a suspension or revocation, overrule a suspension or revocation, reduce a revocation to a suspension and/or reduce the length of a suspension. Further, the City Manager may stay the effective date of any suspension for a reasonable time following a hearing.

(f) Reapplication. No reapplication will be accepted within one year after a certificate is revoked.

(g) Evidence. The following rules shall apply to any hearing required by this section. All parties involved shall have the right to offer testimonial, documentary, and tangible evidence bearing on the issues, to be represented by counsel, and to confront and cross-examine witnesses. 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. Formal rules of evidence and discovery do not apply to proceedings governed by this chapter. Unless otherwise specifically prohibited by law, the burden of proof is on the registrant in any hearing or other matter under this chapter.

#### Section 5-3.11 Public Nuisance.

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

Section 3. Severability. If any provision(s) of this chapter is declared invalid by a court of competent jurisdiction, it is the intent of the City Council that such invalid provision(s) be severed from the remaining provisions of the chapter so that regulation and control of massage may remain in place.

Section 4. This ordinance shall be effective thirty (30) days after its adoption and after it is adopted, it shall be published as provided for by law.

Introduced and read at a regular meeting of the City Council of the City of Yuba City the 7<sup>th</sup> day of March 2017, and adopted at a regular meeting thereof held on the day of \_\_\_\_\_, 2017.

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Stanley Cleveland, Jr., MAYOR

ATTEST:

\_\_\_\_\_  
Patricia Buckland, City Clerk

Approved as to form:

\_\_\_\_\_  
Tim Hayes, City Attorney