

City Council Chambers  
29844 Haun Road  
Menifee, CA 92586

Bill Zimmerman, Mayor  
Bob Karwin, District 1  
Ricky Estrada, District 2  
Lesa Sobek, District 3  
Dean Deines, District 4



## **AGENDA**

## **Menifee City Council Regular Meeting Agenda**

**Wednesday, March 20, 2024  
5:00 PM Closed Session  
6:00 PM Regular Meeting**

**Armando G. Villa, City Manager  
Jeffrey T. Melching, City Attorney  
Stephanie Roseen, Acting City Clerk**

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- 10.5 Second Reading and Adoption of an Ordinance Repealing and Replacing Chapter 5.45 of the Menifee Municipal Code Relating to Massage Businesses

### **RECOMMENDED ACTION**

1. Adopt an ordinance repealing and replacing Chapter 5.45 of the Menifee Municipal Code relating to massage businesses.



## **CITY OF MENIFEE**

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SUBJECT: Second Reading and Adoption of an Ordinance Repealing and Replacing Chapter 5.45 of the Menifee Municipal Code Relating to Massage Businesses

MEETING DATE: March 20, 2024

TO: Mayor and City Council

PREPARED BY: David Gutierrez, Police Captain

REVIEWED BY: Chris Karrer, Police Chief

APPROVED BY: Armando G. Villa, City Manager

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### **RECOMMENDED ACTION**

1. Adopt an ordinance repealing and replacing Chapter 5.45 of the Menifee Municipal Code relating to massage businesses.

### **DISCUSSION**

This Ordinance was introduced for the first reading at the City Council meeting held on February 21, 2024. This is the required second reading and adoption. The Ordinance will become effective 30 days from the date of adoption.

### **STRATEGIC PLAN OBJECTIVE**

Safe and Attractive Community

### **FISCAL IMPACT**

There is no fiscal impact associated with the recommended action.

### **ATTACHMENTS**

1. Ordinance

**ORDINANCE NO. 2024-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENIFEE, CALIFORNIA REPEALING AND REPLACING THE ENTIRETY OF CHAPTER 5.45 OF THE MENIFEE MUNICIPAL CODE RELATING TO MASSAGE ESTABLISHMENTS.**

**WHEREAS**, the City of Menifee seeks to protect the public health, safety, and welfare of all residents, visitors, employees, and business owners; and

**WHEREAS**, the City of Menifee, like many cities across the United States, has experienced an increase of massage businesses that exhibit illegal behavior and violate state and local law; and

**WHEREAS**, the Menifee Police Department has worked diligently with various City departments and the public to shut down illegal massage businesses; and

**WHEREAS**, in 2022 the City Council of the City of Menifee adopted a new business license ordinance which further regulated special business types such as massage businesses; and

**WHEREAS**, the City Council seeks adopt further regulations to ensure that all massage businesses operating in the City of Menifee are sanitary, compliant, and safe.

**NOW, THEREFORE, the City Council of the City of Menifee hereby ordains as follows:**

**SECTION 1.** The above recitals are true and correct and are incorporated in full herein.

**SECTION 2.** Chapter 5.45: Massage Establishments is repealed in its entirety and replaced as described by Exhibit "A", attached hereto and incorporated herein in full.

**SECTION 3.** All ordinances, resolutions, or parts thereof in conflict with this Ordinance are hereby repealed.

**SECTION 4.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Menifee hereby declares the Council would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that anyone or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared unconstitutional, invalid, or ineffective.

**SECTION 5.** This ordinance shall take effect 30 days from the date of its adoption.

**SECTION 6.** The Mayor shall sign this ordinance and the City Clerk shall attest and certify to the passage and adoption of this Ordinance and cause this Ordinance to be published using the alternative summary and posting procedure authorized under Government Code Section 36933.

This Ordinance was introduced for first reading on February 21, 2024, and **PASSED, APPROVED, AND ADOPTED** this 20 day of March 2024.

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Bill Zimmerman, Mayor

Approved as to form:

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Jeffrey T. Melching, City Attorney

Attest:

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Stephanie Roseen, Acting City Clerk

## EXHIBIT A

### CHAPTER 5.45: MASSAGE BUSINESSES

#### Section

5.45.010	Definitions
5.45.020	Massage therapy license required
5.45.030	Exemptions from chapter
5.45.040	Licensing of massage business
5.45.050	Hours of operation
5.45.060	Minors
5.45.070	Alcoholic beverages and food
5.45.080	Recognized school of massage
5.45.090	Physical facility and Building Code requirements
5.45.100	Health and safety requirements
5.45.110	Warning devices prohibited
5.45.120	Out-call massage requirements
5.45.130	Couple's massage authorization requirements
5.45.140	In-Home massage business requirements
5.45.150	Attire and physical hygiene requirements
5.45.160	Prohibited advertising practices
5.45.170	Inspection by government officials
5.45.180	Owner and operator responsibility; denial, revocation, restriction, or suspension of business license
5.45.190	Remedies cumulative; each day a separate offense
5.45.200	Public nuisance
5.45.210	Criminal penalties
5.45.220	Civil injunction
5.45.230	Administrative fines and costs
5.45.240	Authorization to verify

#### **§ 5.45.010 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CALIFORNIA MASSAGE THERAPY COUNCIL (CMTC).** The organization responsible for facilitating and implementing Cal. Business and Professions Code Ch. 10.5 (commencing with § 4600) of Division 2, as that section may be amended from time to time, affecting massage therapists in California.

**CMTC CERTIFICATE.** The certificate issued by the California Massage Therapy Council to massage therapists pursuant to Cal. Business and Professions Code § 4604(a) and to massage practitioners pursuant to Cal. Business and Professions Code § 4604.2, as these sections may be amended from time to time.

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

**COUPLE'S MASSAGE.** A massage performed by two (2) massage therapists to two (2) persons in the same room at the same time within a massage business.

**COUPLE'S MASSAGE AUTHORIZATION.** An authorization indicated on a massage business license issued to a massage business obtained under sections 5.45.020 and 5.45.130 of this chapter allowing the performance of couple's massage. Nothing in this chapter shall be construed to require massage therapists to obtain a separate license, permit, certificate, or other authorization to provide massage.

**EMPLOYED OR RETAINED BY.**

- (1) Any person who is a directly paid employee of a massage business;
- (2) Any person whose association with a massage business is that of an independent contractor who receives compensation for massage therapy provided to patrons of the massage business; and
- (3) Any person who receives a referral of patrons from a massage business and who at any time before or after the referral arranges in any way for compensation to flow to the massage business or any of its owners (regardless of whether the parties involved acknowledge that compensation is flowing in exchange for the referral, or the parties record the compensation in their financial records).

**IN-HOME MASSAGE BUSINESS.** A massage business established solely within a residence in which massages are provided by appointments only. The in-home massage business must be owned and/or operated by the same person or persons who owns or leases the residence. Massages cannot be provided by therapists other than the owner or lessee of the residence.

**MASSAGE, MESSAGE THERAPY, ACUPRESSURE BODYWORK.** Used in this chapter interchangeably. The scientific manipulation soft tissues of the human body, including but not limited to, any method of pressure or friction against or stroking, kneading, rubbing, tapping, compression, pounding, vibrating, rocking, or stimulating of the external surfaces of the body with hands or with any object or appliance. For purposes of this chapter, the terms massage, message therapy, acupressure, and bodywork shall have the same meaning and specifically exclude the diagnosis, prescription, intentional manipulation or adjustments of the skeletal structure, or any other service, procedure or therapy which requires a license to practice (e.g., chiropractic, osteopathy, orthopedics, physical therapy, podiatry or medicine), hypnosis, naturopathic, colonic irrigation, acupuncture, vacuum cupping, nutritional or dietary counseling, detoxification programs, yoga, exercise, Vichy showers and spiritual healing.

**MASSAGE BUSINESS.** Any sole proprietorship, business, establishment, or enterprise which offers massage therapy in exchange for compensation, whether at a fixed place of business or at a location designated by the patron, except for locations where massage is only provided at an out-call basis. Any business which 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. For purposes of this chapter, massage business includes "acupressure" or "day spa" establishments.

**MASSAGE THERAPIST.** Any person to whom a CMTTC certificate has been issued pursuant to Cal. Business and Professions Code § 4604(a) or § 4604.2, as these sections may be amended from time to time, who is engaged in the practice of massage therapy for compensation. As used

in this chapter, the terms bodyworker, bodywork therapist, massage and bodywork therapist, and massage practitioner shall have the same meaning as massage therapist.

**OPERATOR.** The owner(s), operator(s), or individual(s) in charge of or in control of a massage business and subject to the responsibilities in section 5.45.180 of this chapter.

**OUT-CALL MASSAGE SERVICE, MOBILE MASSAGE SERVICE.** Used in this chapter interchangeably. The provision of massage services at a location other than the operational address of a massage business identified on a business license, by a massage therapist, in compliance with all the requirements of section 5.45.120 of this chapter.

**OUT-CALL MASSAGE AUTHORIZATION.** An authorization indicated on a massage business license issued under section 5.45.120 of this chapter to a massage business to perform out-call massages. Nothing in this chapter shall be construed to require massage therapists to obtain a separate license, permit, certificate, or other authorization to provide massage.

**PERSON.** Any individual, proprietorship, partnership, corporation, firm, association, joint stock company, or combination of the above in whatever form or character.

**RECOGNIZED SCHOOL OF MASSAGE.** A school approved by the California Massage Therapy Council that meets minimum standards for training and curriculum in massage and related subjects, that meets any of the following requirements, and that has not been otherwise unapproved by the CMTC:

- (A) Is approved by the Bureau for Private Postsecondary Education.
- (B) Is approved by the Department of Consumer Affairs.
- (C) Is an institution accredited by the Accrediting Commission for Senior Colleges and Universities or the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges and that is one of the following:
  - (1) A public institution.
  - (2) An institution incorporated and lawfully operating as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, as it may be amended from time to time, and that is not managed by any entity for profit.
  - (3) A for-profit institution.
  - (4) An institution that does not meet all of the criteria in subparagraph (B) that is incorporated and lawfully operating as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, that has been in continuous operation since April 15, 1997, as it may be amended from time to time, and that is not managed by any entity for profit.
- (D) Is a college or university of the state higher education system, as defined in Section 100850 of the Education Code, as that section may be amended from time to time.

- (E) Is a school requiring equal or greater training than what is required pursuant to this chapter and is recognized by the corresponding agency in another state or accredited by an agency recognized by the United States Department of Education.

**SOLE PRACTITIONER.** A massage business where the owner owns 100 percent of the business, is the only person who provides massage services for compensation for that business pursuant to a valid and active license issued in accordance with this Code, and has no other employees or independent contractors.

#### **§ 5.45.020 MASSAGE THERAPY LICENSE REQUIRED.**

Except where a specific exemption is applicable pursuant to this chapter, it is a violation of this Code for any person to engage in the practice of massage therapy and for any massage business to employ or retain a person, unless the person first obtains and continues to maintain in full force and effect a valid CMTC certificate.

#### **§ 5.45.030 EXEMPTIONS FROM CHAPTER.**

Unless otherwise specified, this chapter shall not apply to:

- (A) Persons holding a valid certificate to practice the healing arts under the laws of the state including, but not limited to, holders of medical degrees such as physicians, surgeons, chiropractors, osteopaths, naturopaths, podiatrists, acupuncturists, physical therapists, registered nurses, and licensed vocational nurses;
- (B) State-licensed hospitals, nursing homes, sanitariums, physiotherapy establishments, or other state-licensed physical or mental health facilities and their employees;
- (C) Recognized schools of massage and their students in training, provided, the students provide message therapy only under the direct personal supervision of an instructor;
- (D) Barbers and cosmetologists who are licensed under the laws of the state while providing massage therapy within the scope of their licenses, provided that, the massage therapy is limited solely to the neck, face, scalp, feet, and lower limbs up to the knees, and hands and arms, of their patrons; and
- (E) Persons who provide massage therapy to amateur, semi-professional, or professional athletes or athletic teams, facilities, or events, so long as such persons do not practice massage therapy as their primary occupation in the City.

#### **§ 5.45.040 LICENSING OF MASSAGE BUSINESS.**

- (A) Every massage business applying for a City business license shall meet the requirements of this chapter before the business license may be issued, and shall continue to meet the requirements or be subject to suspension or revocation of the license.
- (B) Every massage business shall:
  - (1) Within ten (10) calendar days of the commencement of any massage therapist's period of employment, notify the Finance Department – Business Licensing Division of the City of Menifee Provide the Finance Department in writing of the



employment or affiliation with the massage therapist and provide a copy of their CMTC certificate;

- (2) Within ten (10) calendar days of the date a massage therapist ceases to be employed by or affiliated with a massage business, notify the Finance Department – Business Licensing Division of the City of Menifee in writing of such cessation.
- (3) Provide the Finance Department with proof of insurance provided by an insurance company authorized to do business in the State of California evidencing that the massage business and all massage therapists performing massage for the massage business, are insured under a liability insurance policy providing minimum coverage of Two Million Dollars (\$2,000,000) for personal injury or death to any person arising out of or in connection with the operation of any massage business and the performance of massage for the massage business. All massage businesses or establishments must comply with the requirements of California Labor Code Section 3700 et seq., as those sections may be amended from time to time. Such insurance required by this Subdivision shall remain in full force and effect at all times throughout the operation of the massage business.
- (4) Maintain a current register of all persons employed as massage therapists by the massage business, which shall include the full name, date of birth, current address, phone number, CMTC certificate number, and the CMTC certificate expiration date for each employee. This register shall be available for inspection by City personnel at all times during regular business hours;
- (5) Maintain on its premises the original massage business license and original CMTC certificate for each massage therapist working at the establishment, which shall be displayed in a conspicuous public place on the premises. It shall be unlawful to display photocopies of licenses or certificates. The massage establishment licensee shall be responsible for ensuring each massage therapist's certificate is displayed in a conspicuous place on the premises; and
- (6) Apply for a new business license in the event that the massage business changes names or management or transfers the business to another person.

#### **§ 5.45.050 HOURS OF OPERATION.**

No massage business shall provide massage therapy between the hours of 9:00 p.m. and 8:00 a.m. of the following day. All customers, patrons, and visitors must be excluded from the massage business premises during these hours.

#### **§ 5.45.060 MINORS.**

It shall be unlawful for any massage business to:

- (A) Employ or retain any person who is under the age of 18 years to provide any massage therapy; or
- (B) Provide massage therapy to any person who is under the age of 18 years, except at the request of a parent or other person in lawful custody of the minor.

#### **§ 5.45.070 ALCOHOLIC BEVERAGES AND FOOD.**

- (A) It shall be unlawful for any massage business to sell, give, dispense, provide, or keep, or cause to be sold, given, dispensed, provided, or kept, any alcoholic beverage, as defined in the Business and Professions Code § 23004, as that section may be amended from time to time, on the premises of any massage business or in conjunction with any massage business.
- (B) No food shall be prepared for sale or sold at a massage business or at any location where an out-call massage service or residential massage is performed unless the massage business obtains an appropriate food vending or sales permit from the County of Riverside.

#### **§ 5.45.080 RECOGNIZED SCHOOL OF MASSAGE.**

No massage business shall use the facilities or premises of a recognized school of massage in connection with the operation of a massage business. Students training at a recognized school of massage may perform a massage on a member of the general public while on the premises of the recognized school of massage pursuant to section 5.45.080 of this chapter.

#### **§ 5.45.090 PHYSICAL FACILITY AND BUILDING CODE REQUIREMENTS.**

The following physical facility requirements shall be applicable to all massage businesses.

- (A) All doors to dressing rooms, toilet rooms, and massage therapy cubicles, rooms, booths, or areas shall open inward and shall be self-closing. Draw drapes, curtain enclosures, or accordion-pleated closures in lieu of doors are acceptable on all inner dressing rooms and massage therapy cubicles, rooms, booths, or areas.
- (B) Minimum lighting equivalent to at least one 40-watt light shall be provided in each massage therapy cubicle, room, booth, or area.
- (C) A massage table shall be used for all massage therapy, with the exception of "Thai," "Shiatsu," and similar forms of massage therapy, which may be provided on a padded mat on the floor, provided the patron's genitalia and female patron's breasts below a point immediately above the top of the areola must be fully draped at all times. The tables should have a minimum height of 28 inches. Beds, floor mattresses, and waterbeds are not permitted on the premises of the massage business. Massage tables or padded pads used for outcall massage services must be inspected and approved by the City of Menifee Police Department before use.
- (D) Massages may be provided to no more than two (2) persons at the same time in the same cubicle, room, booth, or area.
- (E) Couple's massages are subject to the following requirements:
  - (1) Couple's massages may only be performed in cubicles, rooms, booths, or areas at least 100 square feet in size.

- (2) Two (2) massage therapists must be present at all times in the cubicle, room, booth, or area where couple's massages are being provided, at all times when such massage is provided.
  - (3) Two (2) massage tables shall be used for all couple's massage therapy with one patron permitted on each table at one time, with the exception of "Thai," "Shiatsu," and similar forms of massage therapy, which may be provided on two (2) separate padded mats on the floor with one (1) patron permitted on each mat at a time. Each patron's genitalia and any female patron's breasts below a point immediately above the top of the areola must be fully draped while any employee of the massage business is in the massage therapy cubicle, room, booth, or area with the patron(s). The tables should have a minimum height of 28 inches. Beds, floor mattresses and waterbeds are not permitted on the premises of the massage business.
- (F) All locker facilities, if any, that are provided for the use of patrons shall be fully secured for the protection of the patron's valuables, and the patron shall be given control of the key or other means of access.
- (G) In any massage business which employs two (2) or more massage therapists performing on-site massage simultaneously, separate restroom facilities shall be provided for each gender in convenient locations. This subdivision shall not be construed to prohibit a person of one sex from engaging in the massage of a person of the other sex. Upon a showing of good cause, the Community Development Director may exempt a massage establishment from the requirement to maintain separate facilities.
- (H) The massage business shall comply with all local and state building standards applicable to other professional and personal services businesses, including, but not limited to, the following provisions in the current California Building Standards Code:
- (1) Have a system of adequate ventilation;
  - (2) Have a supply of hot and cold running water;
  - (3) Have all plumbing and electrical installations installed under permit and inspection by the building and safety department;
  - (4) Have a supply of potable drinking water;
  - (5) Provide hand washing facilities; and
  - (6) Provide public toilet rooms.

#### **§ 5.45.100 HEALTH AND SAFETY REQUIREMENTS.**

The following health and safety requirements shall be applicable to all massage businesses or establishments, including in-home massage businesses, unless otherwise stated:

- (A) The massage business shall at all times be equipped with an adequate supply of clean sanitary towels, coverings, and linens, all massage tables shall be covered with a clean sheet or other clean covering for each patron. After a towel, covering or linen has once

been used it shall be deposited in a closed receptacle and not used until properly laundered and sanitized. Towels, coverings, and linens shall be laundered either by regular commercial laundering or by a non-commercial laundering process which includes immersion in water at least 140°F for not less than 15 minutes during the washing or rinsing operation. Clean towels, coverings, and linens shall be stored in closed, clean cabinets when not in use.

- (B) All massage therapy cubicles, rooms, booths, and areas, wet and dry heat rooms, toilet rooms, shower compartments, and hot tubs and pools shall be thoroughly cleaned and disinfected as needed, and at least once each business day the premises are open, and the facilities are in use. All bathtubs shall be thoroughly cleaned and disinfected after each use.
- (C) Open flames of any kind (including but not limited to candles) are prohibited in any massage establishment, pursuant to California Fire Code § 308.1, as that section may be amended from time to time.
- (D) 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 or made available to a patron, it shall be removed from the container in a way as not to contaminate the remaining portion.
- (E) All bathrobes, bathing suits, and other garments that are provided for the use of patrons shall be either fully disposable and shall not be used by more than one (1) patron, or shall be laundered after each use pursuant to this section.
- (F) All combs, brushes, and or other items of grooming or hygiene that are provided for the use of patrons shall be either fully disposable and shall not be used by more than one (1) patron, or shall be fully disinfected after each use.
- (G) No patrons shall be allowed to use any shower facilities of the massage business unless the patrons are offered slip-resistant sandals or slippers while in the shower compartment. All footwear such as sandals or slippers that are provided for the use of patrons shall be either fully disposable and shall not be used by more than one (1) patron, or shall be fully disinfected after each use.
- (H) No person(s) other than the person(s) receiving a massage and the massage technician shall be within a room in a massage establishment wherein a massage is being given.
- (I) The patron's genitalia and female patron's breasts below a point immediately above the top of the areola must be fully draped at all times while any employee of the massage business is in the massage therapy cubicle, room, booth, or area with the patron. No massage therapy shall be provided to a patron that results in intentional contact, or occasional and repetitive contact with the genitals, anus, gluteal fold, or areola of a patron at any time before, during, or after a massage.
- (J) No owner, massage technician, or other employee of a massage establishment, or any other person shall engage in any form of sexual activity on the property.

- (K) Messages may not be carried on within any separate cubicle, room, booth, or area within a massage establishment or in connection with a massage business, which is fitted with a door capable of being locked unless the only door is an exterior door, and the massage business is a business entity owned by one individual with one or no employees or independent contractors. A temporary lock may be used to secure a massage cubicle, room, booth, or area within a massage business if no staff is present outside of the massage cubicle, room, booth, or area to secure the safety of the massage therapist and client, provided that no lock may be permanently affixed and the locking device must be entirely removed after each massage session and every person in the cubicle, room, booth, or area shall be able to freely exit at all times.
- (L) Except when there is no staff available to assure security for massage therapy patrons and staff who are behind closed doors, all reception and hallway doors must remain unlocked during business hours. Back or exterior doors other than front doors used solely for employee ingress and egress may be secured as permitted by applicable law, which allow for safety doors which may be opened from the inside when locked, but shall otherwise remain unlocked during business hours. This subdivision (L) shall not apply if the massage business is a business entity owned by one individual with one or no employees or independent contractors.
- (M) A list of services available and the price of such services shall be posted in an open and conspicuous public place on the premises. The services shall be described in readily understandable language. No massage business owner, operator, manager, or person in charge of, or in control of, the massage business shall permit, and no massage therapist shall offer to perform, any services other than those posted.
- (N) For each massage service provided, each massage business shall keep a complete and legible written record of:
- (1) The date and hour that service was provided;
  - (2) The service received;
  - (3) The name or initials of the employee entering the information; and
  - (4) The name of the massage therapist administering the service.
- (O) All such records referenced in subsection (N) above shall be open to inspection and copying by City personnel. Such records shall not be used by any massage therapist or operator of a massage business for any purpose other than as records of service provided, and may not be provided to other parties unless otherwise required by law. Such records shall be retained on the premises of the massage business for a period of one year, and shall be immediately available for inspection during business hours.
- (P) No massage business shall be used for residential purposes. No operator of a massage business shall permit any person to live on the premises of the massage business located in a commercial zone. This prohibition shall not apply in cases in which an out-call massage takes place at a residence or to in-home massages businesses.

#### **§ 5.45.110 WARNING DEVICES PROHIBITED.**

The presence of any device which can be utilized as an early warning system, to alert the employees or operator of a massage business to the presence of city personnel, law enforcement, or other local authorities on the premises is prohibited in any massage business. Such prohibited devices include, but are not limited to, light or music dimmers, electronic detection devices, external or internal video equipment, and alarm systems other than those used for fire and/or carbon monoxide alarms.

#### **§ 5.45.120 OUT-CALL MESSAGE REQUIREMENTS.**

- (A) Any massage business must obtain an out-call massage permit prior to performing out-call massage. A copy of the out-call massage permit must be posted in the massage business. City personnel may inspect the massage business where the couple's massage will take place to determine whether the location meets the requirements of this section and all other requirements imposed by this chapter.
- (B) Any out-call massage service must be booked by a massage business and shall not be performed at any location other than the location booked by the massage business.
- (C) No massage business shall be permitted to operate solely as an outcall massage service.
- (D) Out-call massage services may comprise no more than forty percent (40%) of the annual proceeds generated by a massage business.
- (E) No out-call massage services may be performed at a commercial establishment, other than at the patron's own place of business.
- (F) Unless otherwise provided, the provision of out-call massage requirements shall comply with the provisions of this chapter.

#### **§ 5.45.130 COUPLE'S MESSAGE AUTHORIZATION REQUIREMENTS.**

All massage businesses must obtain a couple's massage authorization prior to performing couple's massage. A copy of the couple's massage authorization must be posted in the room, cubicle, booth, or area where the couple's massage is to take place. City personnel may inspect the massage business where the couple's massage will take place to determine whether the location meets the requirements of this section and all other requirements imposed by this chapter.

#### **§ 5.45.140 IN-HOME MESSAGE BUSINESS REQUIREMENTS.**

All in-home massage businesses must obtain a home occupation permit as well as a massage business license and an in-home massage business authorization prior to operating a massage business from within a residential home. A copy of the in-home massage business authorization must be posted in the room, cubicle, booth, or area where massages are to take place. City personnel may inspect the in-home massage business where massages will take place to determine whether the location meets the requirements of this section and all other requirements imposed by this chapter.

#### **§ 5.45.150 ATTIRE AND PHYSICAL HYGIENE REQUIREMENTS.**

The following attire and physical hygiene requirements shall be applicable to all massage therapists and massage practitioners who are employed or retained by a massage business or are sole practitioners within the City.

- (A) All persons shall be clean and wear clean and sanitary outer garments at all times. Persons shall not dress, while engaged in the practice of massage, or while visible to clients of a massage establishment, in any of the following:
  - (1) Attire that is transparent, see-through, sheer, or substantially exposes the certificate holder's undergarments;
  - (2) Swim attire, if not providing a water-based massage modality approved by the CMTC;
  - (3) A manner that exposes the certificate holder's breasts, buttocks, or genitals;
  - (4) A manner that constitutes a violation of section 314 of the Penal Code; or
  - (5) A manner that is otherwise deemed by the CMTC to constitute unprofessional attire based on the custom and practice of the profession in California.
- (B) All persons shall thoroughly wash their hands with soap and water or any equally effective cleansing agent immediately before providing massage therapy to a patron. No massage therapy shall be provided upon a surface of the skin or scalp of a patron where the skin is inflamed, broken (e.g., abraded, cut) or where a skin infection or eruption is present.
- (C) No person afflicted with an infection or parasitic infestation capable of being transmitted to a patron shall knowingly provide massage therapy to a patron, or remain on the premises of a massage business while so infected or infested. Blood-borne diseases, such as HIV/AIDS and hepatitis B (HBV), shall not be considered infectious or communicable diseases for the purpose of this section. Infections or parasitic infestations capable of being transmitted to a patron include, but are not limited to:
  - (1) Cold, influenza, or other respiratory illness accompanied by a fever, until 24 hours after resolution of the fever or otherwise as provided by public health officials;
  - (2) Streptococcal pharyngitis ("strep throat"), until 24 hours after treatment has been initiated and 24 hours after resolution of fever;
  - (3) Purulent conjunctivitis ("pink eye"), until examined by a physician and approved for return to work;
  - (4) Pertussis ("whooping cough"), until five days of antibiotic therapy has been completed;
  - (5) Varicella ("chicken pox"), until the sixth day after onset of rash or sooner if all lesions have dried and crusted;
  - (6) Mumps, until nine (9) days after onset of parotid gland swelling;

- (7) Tuberculosis, until a physician or local health department authority states that the person is non-infectious;
- (8) Impetigo (bacterial skin infection), until 24 hours after treatment has begun;
- (9) Pediculosis (head lice), until the morning after first treatment; and
- (10) Scabies ("crabs"), until after treatment has been completed

**§ 5.45.160 PROHIBITED ADVERTISING PRACTICES.**

- (A) It is a violation of this chapter for any person who does not possess a valid and unexpired CMTC certificate, and for any massage business that employs or retains such a person to:
  - (1) State or advertise or put out any sign, card, or other devise, or to represent to the public through any print or electronic media, that such person is certified, registered, or licensed by a governmental agency as a massage therapist or practitioner; or
  - (2) Hold oneself out of use of the title of "certified massage therapist" or "certified massage practitioner" or any other term, such as "licensed," "registered," or "CMT," that implies or suggests that the person is the holder of a valid and unexpired CMTC certificate.
- (B) 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 subdivision (M) of section 5.45.100 of this chapter, nor shall any massage business employ language in the text of such advertising matter 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.

**§ 5.45.170 INSPECTION BY GOVERNMENT OFFICIALS.**

- (A) All massage businesses or establishments, as a condition of their business licenses, shall permit representatives of the City, Riverside County Health Department, Police Department, or Fire Department, to conduct reasonable inspections of all areas during the regular business hours of the massage business, for the purpose of verifying CMTC certificates and ensuring compliance with state and local law, including, but not limited to, Cal. Business and Professions Code Ch. 10.5 (commencing with § 4600), as these sections may be amended from time to time, City zoning requirements, City building code requirements, the requirements delineated in this chapter or other applicable fire and health and safety requirements.
- (B) Nothing in this section shall be deemed to prohibit the above-described government officials from pursuing any and all available legal remedies to secure entry into and reasonable inspection of the premises of the massage business if the entry is refused.



- (C) It is a violation of this chapter for the massage business to prohibit or interfere with the lawful inspection of the premises at any time it is open for business

**§ 5.45.180 OWNER AND OPERATOR RESPONSIBILITY; DENIAL, REVOCATION, RESTRICTION OR SUSPENSION OF BUSINESS LICENSE.**

The following provisions shall apply to all massage businesses or establishments.

- (A) For the purpose of enforcement of the requirements of this chapter, all owners and operators of the massage business shall be responsible for the conduct of all of its employees, agents, independent contractors, or other representatives, while on the premises of the massage business or providing massage therapy.
- (B) Notwithstanding the provisions of Cal. Business and Professions Code Ch. 10.5 (commencing with § 4600) of Division 2, as that section may be amended from time to time, the City, or its authorized agent, may:
- (1) Require the massage business in its application for a business license, or for the renewal of a business license, to provide information relevant to the activities of the massage business regulated by this chapter;
  - (2) Make reasonable investigations into the information provided in the application for a business license;
  - (3) Verify the CMTC certificates of the massage therapists and practitioners employed by the massage business;
  - (4) Conduct reasonable safety and health inspections of the massage business;
  - (5) Charge a business licensing fee sufficient to cover the costs of the business licensing activities regulated by this chapter; and
  - (6) Deny, revoke, restrict or suspend a business license for the following causes:
    - (a) An employee, agent, independent contractor, or other representative of the massage business has committed a violation of this chapter or Cal. Business and Professions Code Ch. 10.5 (commencing with § 4600) of Division 2;
    - (b) The massage business has provided materially false information in its application for a business license; or
    - (c) Any other reason allowed by law.
- (C) Except as otherwise provided by this chapter, no person granted a business license for a massage business shall operate under any name or conduct the business at any location not specific in the license. If the business name, facilities, and/or location is changed, a new business license shall be obtained.
- (D) All owners or operators of a massage business shall be present on the premises at all times when the massage business is open for business and is providing massage therapy, unless such owner or operator designated a “designated manager” to oversee the conduct

of all employees, agents, independent contractors, or other representatives of the massage business at all times when the massage business is open for business and is providing massage therapy. The name of the designated manager on duty shall be posted in a conspicuous public place in the public area of the massage business.

- (E) If an application for a massage business license is denied or revoked for failure to comply with any requirements of this chapter or chapter 5.01 of the Menifee Municipal Code, the applicant may not reapply for a massage business license for a period of one (1) year from the date the application was denied.
- (F) In the event a massage business license is revoked, no new massage business license may be issued at the location where the revoked massage business license previously operated for a period of one (1) year.
- (G) In addition to compliance with this chapter, massage businesses must comply with Menifee Municipal Code section 5.01.070 Additional License Requirements for Massages Businesses, which, among other things, prohibits the approval of a conditional use permit for a massage business at a location if a conditional use permit for that location was previously revoked in the last five years.

#### **§ 5.45.190 REMEDIES CUMULATIVE: EACH DAY A SEPARATE OFFENSE.**

Any person subject to this chapter who personally, or through an agent, employee, independent contractor, or other representative, violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any violation is committed, continued, or permitted by the person. All remedies provided herein shall be cumulative and not exclusive.

#### **§ 5.45.200 PUBLIC NUISANCE.**

Any massage establishment or business operated, conducted or maintained contrary to the provisions of this chapter shall be, and the same is declared to be, unlawful and a public nuisance, and the City may, in addition to or in lieu of prosecuting a criminal or administrative action hereunder, commence an action or actions, proceeding or proceedings for the abatement, removal or enjoinder thereof, in the manner provided by law, and shall take other steps and shall apply to the court or courts as may have jurisdiction to grant relief as will abate or remove the massage establishments or businesses and restrain and enjoin any person from operating, conducting, or maintaining a massage establishment or business contrary to the provisions of this chapter.

#### **§ 5.45.210 CRIMINAL PENALTIES.**

Any person subject to this chapter who personally, or through an agent, employee, independent contractor, or other representative, violates any provision of this chapter commits a misdemeanor. Any person convicted of a misdemeanor shall be subject to punishment by fine and or imprisonment to the maximum extent permitted by state law.

#### **§ 5.45.220 CIVIL INJUNCTION.**

The violation of any provision of this chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of the City, create a cause for injunctive relief.

#### **§ 5.45.230 ADMINISTRATIVE FINES AND COSTS.**

In addition to the remedies set forth above, any person subject to this chapter who personally, or through an agent, employee independent contractor or other representative, violates any provision of this chapter may be administratively cited.

#### **§ 5.45.240 AUTHORIZATION TO VERIFY.**

By engaging in the practice of massage therapy within the City, and applying for a business license or renewal of a business license, each massage business endorses the provisions of this chapter, agrees to cooperate with the City regarding the provisions and provides authorization for the City, its agents and employees, and the county, its agents and employees, to verify all information requested in the massage business's license application or renewal and to engage in reasonable investigations associated with the City's effort to enforce the provisions of this chapter