

## **ORDINANCE NO. 2015-1094**

### **AN ORDINANCE OF THE CITY OF BELMONT AMENDING BELMONT CITY CODE CHAPTER 13 REGARDING MASSAGE BUSINESSES**

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THE CITY COUNCIL OF THE CITY OF BELMONT DOES ORDAIN AS FOLLOWS:

#### **SECTION 1. LEGISLATIVE FINDINGS**

- (a) In enacting these regulations the City Council recognizes that massage is a viable professional field offering the public valuable health and therapeutic services. The Council also recognizes that massage businesses are peculiarly susceptible to becoming a venue for prostitution and other illegal activity unless properly regulated.
- (b) Improperly trained or poorly educated massage practitioners pose a significant risk of injury to massage business clients.
- (c) The presence of businesses known or reputed to be places of prostitution or other illegal activity can have an adverse impact on surrounding properties and result in blight, foster further illegal activities, and generally become a public nuisance.
- (d) The California legislature and the courts have long recognized the necessity of imposing reasonable regulations and standards for the operation of massage businesses, including but not limited to minimum educational and experience requirements, passage of a practical examination of competence, sanitary conditions, hours of operation, and other operational regulations designed to minimize opportunities for illegal activities and to ensure the protection of the health, safety and welfare of citizens.
- (e) The registration and health and safety requirements imposed by this ordinance are reasonably necessary to protect the health, safety and welfare of Belmont citizens.

#### **SECTION 2. BCC CHAPTER 13 AMENDED**

Belmont City Code Chapter 13 is amended to read:

### **CHAPTER 13 MASSAGE BUSINESSES**

#### **Sec. 13-1 Purpose.**

- (a) 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, the City Council's objective in enacting this chapter is 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. The City Council intends that this chapter reduce and prevent neighborhood blight and to protect and preserve the quality of City neighborhoods and commercial districts, and enhance

enforcement of criminal statutes relating to the conduct of operators and employees of massage businesses.

(b) In enacting this chapter, the City Council is relying upon the uniform statewide regulations applicable to massage practitioners and establishments enacted by the State Legislature to restrict the commercial practice of massage in the City to those persons duly certified to practice by the California Massage Therapy Council.

## **Sec. 13-2                                      DEFINITIONS.**

(a) The definitions in this section apply to the words and phrases use in this Chapter unless the context clearly indicates otherwise.

(b) “California Massage Therapy Council” or “CAMTC” means the Massage Therapy Organization formed under 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 under Business and Professions Code sections 4600 et seq.

(d) *Convicted* and *conviction* means a plea or finding of guilty or plea of no contest.

(e) “Health Officer” means the person appointed by the City under the Health and Safety Code or his or her authorized representatives or designees.

(f) “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.

(g) “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 client through outcall massage services, and includes businesses that offer massage therapy as well as other goods or services. “Massage business” includes a Certified Massage Practitioner who is the sole owner, operator and employee of a massage business operating as a sole proprietorship.

(h) “Operator” or “massage business operator” means any and all owners of a massage business.

(i) “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.

(j) “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 a 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.
  - (5) A sole proprietor of a massage business.
- (k) “Practitioner” or “Massage Practitioner” 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.
- (l) “Reception and waiting area” means an area immediately inside the front door of the massage business dedicated to the reception and waiting of massage business clients and visitors, and which is not a Massage Therapy room or otherwise used for the provision of Massage Therapy services.
- (m) “Registration Certificate” means a certificate issued by the registration authority to a massage business upon registration.
- (n) “Registration Authority” means the chief of police, his or her authorized representatives, or the person designated by the City Manager.
- (o) “School of massage” means any school or institution of learning that is recognized as an approved school under Business and Professions Code Division 2, Chapter 10.5..

### **Sec. 13-3                                      Scope and Exemptions.**

(a) The provisions of this chapter apply to all massage businesses and individuals performing massage with the City of Belmont, except those businesses and individuals in subsection (b).

(b) The provisions of this chapter do not apply to the following classes of businesses or individuals:

(1) Physicians, surgeons, chiropractors, osteopaths, nurses or any physical therapists who are duly licensed to practice their respective professions in the State of California while engaged in activities within the scope of their state license, 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 acting within the scope of their state license.

(2) Barbers and beauticians 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.

(3) 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.

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

(5) 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.

(6) 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:

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

(B) 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;

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

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

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

#### **Sec. 13-4 CAMTC Certification and Local Registration Required**

(a) *Individuals.* It is unlawful for any individual to practice Massage Therapy for compensation within the City unless that individual is a Certified Massage Practitioner.

(b) *Businesses.* It is unlawful for any person to operate a massage business within the City unless all individuals employed or contracted by the massage business to perform Massage including a sole proprietor are Certified Massage Practitioners and the business is registered and holds a valid City registration certificate in good standing under this Chapter.

#### **Sec. 13-5 Application for Massage Business Registration**

(a) *Application.* A person desiring to register a massage business must submit a complete registration application to the chief of police and pay an application fee.

(b) A registration application must be filed:

(1) for new registration at least forty-five days before the proposed operation of the massage business;

(2) for registration renewal at least forty-five days before the expiration of the current

registration.

(c) An applicant whose application is denied for incompleteness is not eligible to reapply for 90 days.

## Sec. 13-6 Application Requirements

(a) *Form.* An application to register or renew registration must be in a form approved by the chief of police. The chief of police may develop a form for mandatory use. The application must include 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. For a general partnership, the names of the individual partners. For a limited partnership, limited liability company, or a corporation, the name of the entity. For applications with more than one person identified as the applicant, a principal applicant must be identified for purposes of processing the application and receiving all correspondence and notices regarding the application and registration.
- (4) A list of all of the massage business's employees and independent contractors who are performing massage and their CAMTC certification;
- (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 of the massage business who is not a Certified Massage Practitioner, a background check application which includes
  - (A) the individual's business, occupation, and employment history for the five (5) years preceding the date of the application,
  - (B) the inclusive dates of the employment history, and
  - (C) the name and address of any massage business or similar business owned or operated by the individual wherever located;
- (9) For all owners, a current driver's license or identification issued by a state or federal governmental agency or other photographic identification bearing a bona fide seal by a foreign government.
- (10) From all owners, a signed statement:
  - (A) attesting that all of the information contained in the application is true and correct;

(B) acknowledging that all owners are responsible for the conduct of the business's employees or independent contractors providing massage services; and,

(C) acknowledging that failure to comply with Business and Professions Code sections 4600 et seq., any local, state, or federal law, or the provisions of this Chapter may result in revocation of the business's Registration Certificate.

(b) *Signature.* The application must be signed by all owners. For a general partnership, the application shall be signed by each of the partners. For a limited partnership, the application for any registration must be signed by each of the general partners. For a limited liability company that has elected to be managed by its members, the application shall be signed by each member or by an officer authorized by the articles of organization or the operating agreement to bind the company. In the case of a limited liability company that has elected to be managed by a manager or managers, the application shall be signed by the manager or managers or by an officer authorized by the articles of organization or the operating agreement to bind the company. For a corporation, the application shall be signed by two officers of the corporation, one from each of the following categories: (1) the chairperson of the board, the president, or a vice president, and (2) the secretary, assistant secretary, chief financial officer, or assistant treasurer.

## **Sec. 13-7                                      Registration**

(a) *Registration Certificate.* Registration is specific to the ownership and the location of the business. The registration authority effectuates registration by issuing a registration certificate to the applicant.

(b) *Term.* Registration is valid for two years from the date the registration authority issues a registration certificate unless revoked, surrendered, or expires by change of ownership. Suspension of a registration certificate does not extend the term of registration.

(c) *Change of Ownership.* Registration expires upon the addition of any new owner of the massage business. The new ownership must apply for registration, pay a new application fee, and secure a new registration certificate from the registration authority.

(d) *Not Transferable.* Registration and a registration certificate are not transferable to another person or location.

(e) *Renewal.* Registration may be renewed subject to the same requirements as registration, except as expressly provided otherwise. A registration holder is solely responsible to timely submit a complete renewal application. Failure to timely submit a renewal application may result in the expiration of the registration before the renewal application is granted or denied.

(f) *Other approvals.* Registration required by this chapter is in addition to any other license or permit required under any other provisions of the Belmont City Code or Belmont ordinances, including but not limited to a business license, zoning administrator permit, conditional use permit, building permit, occupancy certification or permit, or any other permit or license required by law. The issuance of a registration certificate does not modify the requirements of any other permit or approval and is not a substitute for obtaining any other permit, license or approval otherwise required. The issuance of a registration

certificate may not be construed as a factor in favor of the issuance of any other permit, license, or approval necessary under this Code for the operation of the massage business.

## Sec. 13-8

## Registration certificate issuance or denial

(a) *Determination.* Within 45 days of receiving a complete application, the registration authority must register the massage business and issue a registration certificate to the owner unless he or she finds one or more grounds for denial under this section.

(b) *Mandatory grounds for denial.* The registration authority may not issue a registration certificate and must deny the application for registration if:

- (1) The application fee has not been paid;
- (2) The application, once complete, does not conform to the requirements of this chapter;
- (3) The massage business is disqualified from registration under Section 13-9;
- (4) Registration or operation of the massage business at the proposed location, as conditioned, is not consistent with federal, state and local laws, rules, and regulations, or any final administrative decision or court order; or,
- (5) Another ownership group is or was operating a massage business at that location and
  - (A) the City has initiated administrative, civil, or criminal proceedings against one or more members of that ownership group for violation of this Chapter and the proceedings, including any appeal, are not final,
  - (B) the massage business registration is currently suspended,
  - (C) the massage business registration was revoked within five years from the date of the pending application, or
  - (D) the ownership surrendered its registration certificate or any land use permit or other approval necessary to operate a massage business on the premises within five years from the date of the pending application while an enforcement proceeding was pending against one or more owners for conduct arising out of operation of the business.

(c) *Permissive grounds.* The registration authority may deny a registration application if:

- (1) An owner held an approval to operate a business located in another jurisdiction that if presently located in the City would be a massage business and within the last five years the owner either surrendered the approval while an enforcement proceeding was pending or had the approval revoked;
- (2) An owner holds an approval to operate a business located in another jurisdiction that if presently located in the City would be a massage business and enforcement proceeding are pending in that jurisdiction based on conduct that if committed in relation to a massage business located in the City of Belmont would be grounds to deny or revoke registration. The registration authority must make an independent determination based on substantial evidence as to whether the conduct occurred; or,

(d) *Written decision.* If the registration authority denies the application, he or she must notify the applicant of the reasons for the denial in writing, the right of appeal under this chapter, and that the failure to request a timely appeal will waive the applicant's right to contest the decision.

(e) *Location*. For purposes of subsection (b), location of a massage business includes

(1) the parcel which the massage business is located, or a contiguous parcel owned in whole or part by an owner of the parcel, and

(2) any unit within the same condominium subdivision.

## Sec. 13-9

## Registration Disqualification

(a) A massage business is disqualified from registration and possessing a City Registration Certificate to operate at a particular location if:

(1) The individuals providing Massage Therapy for the business do not currently possess valid CAMTC-certification;

(2) An owner

(A) is required to register under Penal Code section 290 (sex offender registration),

(B) was convicted of any of the following offenses:

(i) Penal Code section 266i (pandering),

(ii) Penal Code Section 315 (keeping or residing in a house of ill-fame),

(iii) Penal Code Section 316 (keeping disorderly house),

(iv) Penal Code Section 318 (prevailing upon person to visit a place for prostitution),

(v) Penal Code Section 647(b) (engaging in or soliciting prostitution),

(vi) Penal Code Section 653.22 (loitering with intent to commit prostitution),

(vii) Penal Code Section 653.23 (supervision of prostitute);

(viii) any crime involving dishonesty, fraud, deceit, violence, or moral turpitude;

(ix) a felony offense involving the sale of a controlled substance, or

(x) an offense in any other state which if committed in this state, would have been punishable as an offense listed in this subdivision,

(C) made a material misrepresentation on the application,

(D) within the last 5 years from the date of the pending application

(i) made a material misrepresentation in a massage business registration application;



**Sec. 13-11****Notice of Proposed Registration Decision.**

- (a) This section applies to existing registrations only.
- (b) The chief of police must serve a notice of intent to suspend or revoke a registration or condition or deny a registration renewal at least 14 calendar days before the effective date of the proposed decision. The notice must contain:
  - (1) A summary of the facts and evidence establishing the grounds for the condition, suspension, or revocation.
  - (2) A statement that the owner may request a meeting on the proposed registration decision by submitting a request in writing to the chief of police within 7 calendar days of the date of service of the notice or appeal the registration decision as provided in Section 13-12, and that the failure to either request a meeting or timely appeal waives the right to contest the decision.
- (c) The owner may request a meeting with the chief of police to present information as to why the proposed licensing decision should be modified or set aside by submitting a written request to the chief of police within 7 calendar days of the date of service of the notice. The owner may appear at the meeting with or by a representative.
- (d) Upon receipt of a timely request the chief of police must schedule a meeting within 5 calendar days, or as soon as reasonably possible thereafter.
- (e) The chief of police must render a written decision before the effective date of the proposed registration decision, or as soon as reasonably possible thereafter, confirming, modifying or setting aside the proposed registration decision unless the chief of police and the owner mutually agree in writing to extend the time to render a decision. The final decision must inform the owner of the right to appeal the decision to the city manager.

**Sec. 13-12.****Appeal to City Manager.**

- (a) An owner wishing to contest a registration decision denying a new registration or renewal, imposing modifications or conditions on a registration, or suspending or revoking a registration must timely appeal the matter to the city manager as set forth in this section. An owner who fails to submit a timely notice of appeal waives the right to contest the registration decision.
- (b) A written notice of appeal contesting a registration decision (“notice of appeal”) must be submitted to the city clerk within 10 calendar days after service of the chief of police’s decision. The notice of appeal must specify and contain:
  - (1) The name, address, and phone number of the appellant and the principal applicant or owner, and the name and location of the massage business.
  - (2) A detailed factual basis for the appeal.
  - (3) A complete copy of the most recent application.
  - (4) A complete copy of the chief of police’s written decision.

(c) Upon receipt of a complete and timely filed notice of appeal, the city manager shall hire or appoint a hearing officer and schedule a hearing not less than 5 business days, nor more than 14 calendar days from the date of the filing of the notice of appeal with the city clerk or as soon thereafter as reasonably possible. The city manager shall serve a notice of the hearing on the principal applicant or owner providing the date, time and place of the hearing. Appeals of the denial of a new registration may be heard by the City Manager and may be decided based on written submissions without an oral hearing.

(d) A hearing under this section is informal. All relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Relevant admissible evidence includes but is not limited to incident reports and witness affidavits. A formal oath is not required for witnesses to provide testimony.

(e) The city bears the burden of proof at the hearing to establish facts sufficient to support the findings necessary for the registration decision.

(f) All parties may be represented by counsel, and may present oral and written evidence.

(g) Oral hearings shall be open to the public unless the hearing officer determines that closure of the hearing is necessary to protect a witness.

(h) The hearing officer's duties include audio recording the proceedings and regulating the course of the proceeding. The hearing officer may limit the use of witnesses, testimony, evidence, rebuttal, and argument. The hearing official may allow the cross-examination of witnesses to the extent necessary to ensure a fair hearing and may limit cross-examination of witnesses as necessary to maintain proper decorum.

(i) The city manager may establish rules or regulations governing the selection and duties of hearing officers.

(j) In the event that the applicant or owner or his or her counsel fails to appear or present any evidence at the hearing, the hearing officer must render a determination based on the evidence in the record and offered at the hearing by the chief of police.

(k) The hearing officer must issue a written determination to the city manager within 10 calendar days following completion of the hearing. The determination must make written findings of fact and recommend a decision based upon the findings. The findings of fact must be supported by the weight of the evidence. The determination must explain the reasons for the recommendation. The failure of the hearing officer to issue a timely decision does not prejudice the city's right to act in the matter.

(l) Within 5 days of receiving the hearing officer's determination, the city manager must render a final registration decision based on the findings of fact contained in the hearing officer's determination, or remand the matter to the hearing officer to clarify the findings, make additional findings, or take additional evidence. The city manager's final licensing decision is conclusive as to the city and must inform the principal applicant or owner that the time limit to seek judicial review is governed by Code of Civil Procedure Section 1094.6.

## **Sec. 13-13**

### **Operating Requirements**

(a) No person may perform or permit any Massage within the City unless all requirements of this section are met.

(b) CAMTC-certification must 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.

(c) A massage business may be open and provide massage only between the hours of 7:00 a.m. and 9:00 p.m. All massage services must cease and the business must ensure that all clients exit the premises by 9:00 p.m.

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

(e) A copy of the CAMTC certificate for each Massage Practitioner employed in the business must be displayed in the reception area. CAMTC certificates of former employees or contractors must be removed as soon as those practitioners are no longer employed by or offering services through the massage business.

(f) 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 provided; 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 other City officials charged with enforcement of this chapter. These records 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.

(g) Massage businesses must at all times be equipped with an adequate supply of clean sanitary towels, coverings, and linens. Clean towels, coverings, and linens must be stored in enclosed cabinets. Towels and linens must not be used on more than one (1) client, unless they have first been laundered and disinfected. Disposable towels and coverings must not be used on more than one (1) client. Soiled linens and paper towels must be deposited in separate, approved receptacles.

(h) Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bath rooms, tanning booths, whirlpool baths and pools must 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 must 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.

(i) Instruments utilized in performing massage must not be used on more than one (1) client unless they have been sterilized, using approved sterilization methods.

(j) All massage business operators and their employees, including Massage Practitioners, must wear clean, non-transparent outer garments. The garments must not expose their genitals, pubic areas, buttocks, or chest, and must 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.

(k) No person may, and the owner, operator, responsible managing employee, or manager must not permit a person to possess an open container of alcohol, consume an alcoholic beverage, unlawfully ingest controlled substances, or ingest medical cannabis on the premises of a massage business.

(l) A massage business may not operate as a school of massage, or use the same facilities as that of a school of massage.

(m) 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 in accordance with subsection (d), 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.

(n) No massage may be given unless the client's genitals are, at all times, fully covered. A Massage Practitioner may 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 persons clothing.

(o) 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.

(p) When a massage business is located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area, clear visibility of the interior reception and waiting area through those windows may not be obstructed during business hours by any means including curtains, blinds, tints, or place of materials in the line of sight. . For the purpose of this subsection, there is an irrefutable 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.

(q) All signs must conform with City regulations.

(r) Minimum lighting consisting of at least one (1) artificial light rated at not less than 450 lumens shall be provided and shall be operating undimmed 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 must be provided at all times.

(t) Adequate dressing, locker and toilet facilities must be provided for clients.

(u) A minimum of one (1) wash basin for employees must 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 must be provided at each basin.

(v) Pads used on massage tables must be covered with material acceptable to the Health Officer.

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

(x) A Massage Practitioner must operate only under the name specified in his or her CAMTC certificate. A massage business must operate only under the name specified in its Registration Certificate.

(y) A massage business must not allow any person to reside within the massage business or in attached structures owned, leased or controlled by the massage business.

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

#### **Sec. 13-14                      Inspection.**

The investigating and enforcing officials of the City, including but not limited to the Police, Health Officer, Building Official and Zoning Administrator, or their designees, are authorized 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 and to charge inspection fees established therefore.

#### **Sec. 13-15                      Reporting.**

(a) A registrant must report any of the following within 96 hours of the occurrence to the chief of police:

(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 by the business that constitutes a violation of this chapter, or state or federal law.

(b) 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 required information from another source.

#### **Sec. 13-16                      Violation**

(a) It is unlawful for an owner to establish or operate, or to allow the establishment or operation of a massage business in violation of this chapter.

(b) Every building or place in which a massage business is established or operated in violation of this chapter is public nuisance that may be enjoined, abated, and prevented and for which damages may be recovered.

#### **Sec. 13-17                      Enforcement**

(a) A violation of the registration requirement in Section 13-4, an operating requirement in Section 13-13, or Section 13-16 is an offense that may be charged as provided in Section 1-8.

(b) Violation of Section 13-4, 13-13, or 13-16 may be remedied by any means available to remedy a violation of this Code. The remedies are cumulative.

(c) Notwithstanding Section 30-12, administrative fines issued under chapter 30 for violation of this chapter may be issued in amount between \$100 and \$1,000 as determined by the registration authority for each offense.

### **SECTION 2. NO DUTY CREATED**

This chapter is not intended to create a mandatory duty on the part of the city to protect any person from any injury or damage arising out of the establishment or operation of a massage business.

### **SECTION 3. CEQA.**

The City Council finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. The Council therefore directs that a Notice of Exemption be filed with the San Mateo County Clerk in accordance with the CEQA guidelines.

### **SECTION 4. SEVERABILITY.**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Belmont hereby declares that it would have passed this Ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

### **SECTION 5. EFFECTIVE DATE.**

This Ordinance shall take effect and will be enforced thirty (30) days after its adoption.

#### SECTION 6. PUBLICATION AND POSTING

Publication of summary. The City Clerk has caused to be published a summary of this ordinance, prepared by the City Attorney under Government Code Section 36933, subdivision (c), once, in a newspaper of general circulation printed and published in San Mateo County and circulated in the City of Belmont, at least five days before the date of adoption. A certified copy of the full text of the ordinance was posted in the office of the City Clerk since at least five days before this date of adoption. Within 15 days after adoption of this ordinance, the City Clerk shall cause the summary of this ordinance to be published again with the names of those City Council members voting for and against the ordinance; and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of this adopted ordinance with the names of those City Council members voting for and against the ordinance.

\* \* \*

The City Council of the City of Belmont, California introduced the foregoing ordinance, on November 24, 2015 and adopted the ordinance at a regular meeting held on December 8, 2015 by the following vote:

Ayes: Wright, Reed, Lieberman, Stone, Braunstein

Noes:

Absent:

Abstain:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney