

## **ORDINANCE NO. 913**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROSEMEAD, CALIFORNIA AMENDING CHAPTER 5.24 OF THE ROSEMEAD MUNICIPAL CODE REGARDING THE LICENSING AND REGULATION OF MASSAGE PRACTITIONERS AND MASSAGE ESTABLISHMENTS**

#### **THE CITY COUNCIL OF THE CITY OF ROSEMEAD DOES ORDAIN AS FOLLOWS:**

##### **SECTION 1. Findings.** The City Council finds as follows:

A. Under its general police powers (Cal. Const. art. 11, § 7), Government Code sections 51030 – 51034, and Business and Professions Code section 16000, the City is authorized to, and currently does regulate, the qualifications and licensing of massage establishments and massage service providers. The City also regulates certain operational aspects of such businesses and individuals in order to protect the public health, safety, and welfare.

B. The Legislature has enacted SB 731, which is codified as Chapter 10.5 of Division 2 of the California Business and Professions Code (commencing at section 4600 and following) (the “Massage Therapy Law”).

C. Among other things, the Massage Therapy Law establishes a non-profit “Massage Therapy Organization,” which was subsequently incorporated as the California Massage Therapy Council (“CAMTC”) that is authorized to issue certificates for massage service providers (referred to as “massage practitioners” and “massage therapists”) that meet certain educational and experiential qualifications. The holder of such a certificate has the right to practice massage anywhere within the state in a manner consistent with his or her CAMTC certificate and such local regulations that are not in conflict with the Massage Therapy Law.

D. The Massage Therapy Law pre-empts the application of certain local land use, zoning, and operational regulations if a massage establishment employs only persons certified by the CAMTC.

E. The Massage Therapy Law does, however, permit the City to adopt and enforce certain business licensing and reasonable health and safety requirements for massage establishments and massage service providers provided such regulations are consistent with the Massage Therapy Law.

F. The City desires to amend Chapter 5.24 of the Municipal Code so that it is consistent with the Massage Therapy Law.

G. There is a continued need for such regulations because there is a significant risk of injury to massage patrons by improperly trained or educated massage service providers and the City has a legitimate interest in providing reasonable safeguards against injury and economic loss to such massage patrons.

H. Massage is also a business that involves intimate contact between persons, which creates opportunities for acts of prostitution and other unlawful sexual activity to occur.

I. The adoption of qualification standards for massage service providers based on the CAMTC certificate program established under the Massage Therapy Law and the enhancement of the City's reasonable regulations on the operation of massage establishments and the conduct of massage service providers would serve to reduce the risk of illegal and potential injurious activity.

J. The provisions of this ordinance are not intended to be exclusive and compliance with Chapter 5.24 will not excuse noncompliance with any state or local laws or regulations that are uniformly applied to other professional or personal service businesses, including zoning regulations, building, fire, electrical, and plumbing codes, and health and safety laws and regulations applicable to professional or personal service businesses.

**SECTION 2.** Chapter 5.24 of the Rosemead Municipal Code is hereby amended to read as follows:

**“Chapter 5.24**

**Massage Establishments**

**Sections:**

<b>5.24.010</b>	<b>Purpose and Intent.</b>
<b>5.24.020</b>	<b>Definitions.</b>
<b>5.24.030</b>	<b>CAMTC Certificate</b>
<b>5.24.040</b>	<b>Exceptions</b>
<b>5.24.050</b>	<b>Massage Business License.</b>
<b>5.24.060</b>	<b>Massage Establishment Operating Requirements.</b>
<b>5.24.070</b>	<b>Change of Location, Name, or Information and Separate Location.</b>
<b>5.24.080</b>	<b>Appeals.</b>

**Section 5.24.010 Purpose and Intent.**

The purpose of this Chapter 5.24 is to protect the public's health and safety and the personal safety of massage therapists through the establishment of certain licensing standards pertaining to massage establishments within the City of Rosemead, and to recognize massage therapy as a legitimate business occupation and health service enhancement. Nothing in this ordinance is intended to permit any use, conduct and/or activity that violates any federal, state or local law or regulations.

**Section 5.24.020 Definitions.**

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this Chapter shall govern the construction, meaning, and application of words and phrases used in this Chapter.

“CAMTC” means the California Massage Therapy Council created by California Business and Profession Code section 4600 and following sections. The CAMTC is referred to as the “Massage Therapy Organization” in the Massage Therapy Law.

“CAMTC certificate” means a current and valid certificate issued by the CAMTC to a massage practitioner or therapist.

“City” means the City of Rosemead.

“City Council” means the City Council of the City of Rosemead.

“City Manager” means the City Manager of the City of Rosemead, or his or her designated representative.

“County” means the County of Los Angeles.

“Customer area” means any area open to customers of the establishment,

“Employee” means any person, other than a massage practitioner or manager, who performs services at the massage establishment and receives compensation from the operator of the massage establishment for such services, including an independent contractor, while on the premises of the massage establishment.

“Health Department” means the Los Angeles County Department of Health Services.

“Manager” means the person(s) designated by the operator of the massage establishment to act as the representative and agent of the operator in managing day-to-day operations with the same liabilities and responsibilities. Evidence of management includes, but is not limited to, evidence that the individual has power to direct or hire and dismiss employees, control hours of operation, create policy or rules, or purchase supplies. A manager may also be an operator.

“Massage” or “massage therapy” means any method of treating the external parts of the body for remedial, hygienic, relaxation or any other similar purpose, whether by means of pressure on, friction against or stroking, kneading, tapping, pounding, vibrating, rubbing or other manner of touching external parts of the body with the hands, or with the aid of any mechanical or electrical apparatus or appliance with or without supplementary aids such as rubbing alcohol, liniment, antiseptic, oil, powder, cream, ointment or other similar preparations commonly used in this practice and shall include herbal body wraps. For the purposes of this Chapter, “massage” or “massage therapy” includes the techniques of acupressure and reflexology.

“Massage business or establishment” means any business or establishment, including a sole proprietor or independent contractor, conducted within the City where any person engages in, conducts, carries on or permits to be engaged in, conducted or carried on, for money or any other consideration, the administration to another person of a massage, and also includes all businesses or establishments where massage therapy is provided as an ancillary service such as clubs, gyms, day spas and professional offices where such massage therapy is not otherwise exempt under this Chapter..

“Massage practitioner” or “massage therapist” means any person who administers to another person a massage for any form of consideration.

“Massage Therapy Law” means Chapter 10.5 of Division 2 of the California Business and Professions Code (beginning at Section 4600).

“Operator” means (1) a sole proprietor of, (2) a general partner of, or (3) all persons who have an ownership interest in, a massage business or establishment.

“Person” means any individual, corporation, partnership, association or other group or combination of individuals acting as an entity.

“Registered school” means an institution that provides massage therapy education and training as such term is defined in Section 4600 of the Massage Therapy Law.

“Sheriff” means the designated representative of the Sheriffs Department of Los Angeles County assigned to the City.

“Sheriffs Department” means the Sheriffs Department of the County of Los Angeles.

“Specified criminal offense” means:

(a) Within 5 years of the date of the filing of the application has pleaded guilty or nolo contendere to, or been convicted in a court of competent jurisdiction of a misdemeanor or felony crime involving sexual misconduct, including but not limited to (1) Chapter 1 of Title 9 of the Penal Code (Sections 261 -269) relating to sexual crimes; (2) Chapter 8 of Title 9 of the Penal Code (Sections 314-318.6) relating to indecent exposure, obscenity and disorderly establishments; or (3) Penal Code Section 647(a) or (b) relating to prostitution; or

(b) Any similar offenses under the criminal code or penal code of this state or any other states or countries; or

(c) Having permitted, through an act of omission or commission, an employee or agent to engage in any type of moral turpitude or sexual misconduct offense listed in (a) or (b) above (the conduct of the employee or agent, if such resulted in a conviction or a plea of nolo contendere or guilty, will be considered imputed to the principal).

#### **Section 5.24.030 CAMTC certificate.**

A. Massage Businesses and Establishments. No person may engage in, conduct or carry on, or permit to be engaged in, conducted or carried on in any location within the City, a massage business or establishment unless all persons providing massage therapy at or on behalf of the massage business or establishment have a CAMTC certificate.

B. Massage Therapy. No person may engage in, conduct, carry on, or perform massage therapy within the City unless such person has a CAMTC certificate.

#### **Section 5.24.040 Exceptions.**

The requirements of Section 5.42.030 do not apply to:

A. Any physician, surgeon, chiropractor, osteopath, naturopath, podiatrist, acupuncturist, physical therapist, registered nurse or vocational nurse duly licensed to practice their respective profession in the state.

B. Any treatment administered in good faith in the course of the practice of any healing art or profession by any person licensed to practice any such art or profession under the California Business and Professions Code or any other law of the state.

C. Barbers, cosmetologists, estheticians, and manicurists licensed to practice their respective profession under the laws of the state while performing activities within the scope of their license, provided that such massage is limited solely to the neck, face, scalp, feet, hands, arms, and lower limbs up to the knees of their patrons.

D. State-licensed hospitals, nursing homes, and other state-licensed physical or mental health facilities and their employees.

E. Persons who provide massage therapy to athletes or athletic teams, facilities or events, so long as such persons do not practice massage therapy as their primary occupation within the city.

F. Registered schools and their employees that provide massage therapy education or training and their students in training, provided that such students perform massage therapy only under the direct personal supervision of an instructor.

#### **Section 5.24.050 Massage Business License.**

A. Business License Required. The owner of each massage business or establishment, and any massage practitioner or massage therapist that desires to work as an independent contractor must obtain a business license pursuant to this Chapter prior to commencing operation or providing any massage therapy and must thereafter maintain a valid business license.

B. Business License Application. The application for a business license will be made in accordance with the provisions of this Chapter. Each applicant for a massage business license must provide the following information where applicable as determined by the City, with the application:

1. The full true name under which the massage establishment will be conducted.

2. The present or proposed address where the massage establishment is to be conducted.

3. The applicant's full, true name, any other names used within the past five (5) years, date of birth, California Drivers License Number or California Identification Number, present residence address and residence telephone number, and the sex, height, weight, color of hair, and color of eyes of the applicant.

4. Acceptable written proof that the applicant is at least eighteen (18) years of age.

5. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter together with the state and date of incorporation and the names and residence addresses and telephone numbers of each of its current officers and directors, and of each stockholder holding more than five (5) percent of the stock of that corporation.

6. If the applicant is a partnership, the application shall set forth the name, residence address and telephone numbers of each of the partners, including each of the limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership. If one or more of the partners is a corporation, the provisions of this section pertaining to corporate applicants shall apply.

7. A complete description of all services to be provided at the massage establishment.

8. The names and addresses of each massage practitioner and massage therapist providing massage therapy at or on behalf of the business or establishment, including whether they are a full-time employee or an independent contractor, and proof that each such practitioner or therapist has a valid CAMTC certificate.

9. The name of the person(s) designated by the applicant to act as manager of the massage establishment. The manager shall be required, at all times, to meet all of the applicable requirements of this Chapter.

10. A description of any other business to be operated on the same premises, or on adjoining premises, owned or controlled by the applicant.

11. The name and address of the owner and lessor of the real property upon or in which the massage establishment is to be conducted. In the event the applicant is not the legal owner of the property, the application must be accompanied by a copy of the lease and a notarized acknowledgment from the owner of the property that a massage establishment will be located on his/her property.

12. Business, occupation, or employment history of the applicant for the three years immediately preceding the date of the application.

13. The business license and permit history of the applicant, including whether such person, in previously operating in this City, or another city or state under license or permit, has had such license or permit revoked or suspended, and the reason for such action.

14. Whether the applicant has been convicted of or permitted any specified criminal offense. If an applicant or owner of the massage establishment does not have a CAMTC certificate, then the applicant and owner of the massage establishment must provide proof of a Live Scan or other similar City approved background check.

15. A nonrefundable business license fee, and renewal fee in the case of a business license renewal, as set by resolution of the City Council shall be paid to the City to defray the actual cost of processing the business license.

C. Inspection of Premises. Upon receipt of a complete application, a business license officer will cause the inspection of the proposed premises of any fixed location massage business or establishment for compliance with the requirements of this Chapter and code.

D. Issuance of License. Upon receipt of a written application for a business license for an establishment, a business license officer shall ascertain whether such business license should be issued as requested. Upon the completion of the review, the City must issue the business license if it finds:

1. The required fee has been paid.
2. The application conforms in all respects to the provisions of this Chapter.
3. The applicant has not made a material misrepresentation or omission in the application.
4. The applicant is at least eighteen (18) years of age.
5. The massage establishment as proposed by the applicant would comply with all applicable laws, including, but not limited to, health, zoning, fire and safety requirements and standards.

E. Denial of License. If a business license officer finds that any of the applicable requirements of this Chapter or this Code are not satisfied, including any conviction for or the permitting of a specified criminal offense, recent history of prior business license or permit suspension or revocation, or evidence that the applicant has provided materially false information, the application will be denied. The decision of a business license officer to deny a business license application or renewal may be appealed pursuant to the procedures set forth in Section 5.24.080 of this Chapter.

G. License Renewal. A massage business license must be renewed in accordance with the provisions of this Chapter, at which time the applicant must provide proof that all applicable requirements of this Chapter and this Code remain satisfied, and the applicable business license renewal fee.

H. Transfer of License Prohibited. Upon the sale or transfer of any interest in a massage business or establishment, the business license will become void. The person acquiring the interest in a massage business or establishment must submit a new business license application and receive approval of such license in accordance with the provisions of this Chapter.

I. Notification of Changes in Registered Massage Practitioners and Therapists. Each licensee must submit to the City the names and applicable CAMTC certificate of any new massage practitioners or massage therapists not previously included in the list required under subsection (B)(8) above who are hired or retained to provide massage therapy at or on behalf of the business or establishment, including whether they will be a full-time employee or independent contractor, prior to such person commencing the provision of any massage therapy services. In addition, any discharge or termination of the services of a massage practitioner or massage therapist must be reported to the City within five business days of such event.

J. Revocation or Suspension of License. The following grounds constitute a basis for the revocation or suspension of a license:

1. The misrepresentation of a material fact by an applicant in obtaining a license.

The continuation of the operations of the licensee under such license will be detrimental to the public health, safety, peace, welfare or morals, or is found to constitute a public nuisance.

3. The violation of any law related to the operation of the applicable business, including any violations of this code or a specified criminal offense.

4. The violation of any condition imposed on the license.

K. Revocation / suspension procedures.

1. Complaints against any licensee must be in writing and must set forth one or more of the grounds enumerated above. Complaints must be filed with, or may be initiated by, a business license officer, who will then conduct an investigation to determine whether the complaint is sufficient to show probable cause for the revocation or suspension of the license. A written report of any officer, employee or agent of the City disclosing violations of any law by the licensee or the licensee's agents or employees will also be deemed a complaint within the meaning of this section. All complaints must be verified unless made by City officers, employees, or agents in their official capacity

2. Upon completion of the business license officer's investigation, the business license officer will report the results to the City Manager, together with a recommendation as to whether grounds exist to revoke or suspend the license or whether the complaint should be disregarded.

3. Based upon the report of such business license officer and such additional investigation as the City Manager may deem appropriate, the City Manager will determine whether the complaint constitutes a sufficient basis to revoke or suspend the license, and if so, will issue a written order of revocation or suspension to the licensee setting forth the grounds for revocation or suspension of the license. Such written order must be sent by certified mail to the licensee's last known address or be personally delivered. The order must also provide notice that the license revocation or suspension

will become final within 10 days of the date of mailing or personal delivery of the order unless it is timely appealed in the manner provided in Section 5.24.080 of this Chapter.

#### **Section 5.24.060    Massage Establishment Operating Requirements.**

No person shall engage in, conduct, carry on, or permit to be engaged in, conducted, or carried on, any massage establishment, unless each and all of the following requirements are met.

A.     Massage operations shall be carried on or conducted, and the premises shall be open only between the hours of 8:00 a.m. and 10:00 p.m. of any day. A person designated as a manager shall be on the massage establishment premises at all times of operation and must be registered with the City Manager by the operator to receive all complaints and be responsible for all violations taking place on the premises. The appointment of a manager must be in writing with the manager in charge of the premises acknowledging this appointment. All managers must be registered with the City prior to being employed in this position, and all managers must possess a valid CAMTC certificate.

B.     A list of services available and the cost of such services shall be posted in bold minimum one inch type, in English and such other languages as may be convenient to communicate such services, in an open public place within plain view of the entry of the premises, and shall be described in readily understandable terms. No operator or manager shall permit, and no massage therapist shall offer or perform, any service other than those posted pursuant to this section.

C.     The massage establishment business license and a copy of the CAMTC certificate of each and every massage therapist employed in the massage establishment shall be displayed in an open and conspicuous place within plain view of the entry of the massage establishment premises.

D.     Every massage establishment shall require all customers to sign a register book. The manager shall assure that the massage establishment shall keep an accurate register book showing the name and address of each customer in clear and legible writing, verified by the customer's driver's license or identification card, the name of the massage therapist administering the treatment, and the type of treatment administered. Such register books shall be maintained on a form approved by the City Manager. Such books shall be open to inspection by officials with responsibility for enforcement of this Chapter during regular business hours upon demand, written or oral, and without use of subpoena or court process; and may not be used for any other purpose, including use of the file by operators, managers and employees of the establishment. Such register books shall be maintained on the premises of the massage establishment for a period of two (2) years.

E.     Massage establishments shall at all times be equipped with an adequate supply of clean towels, coverings, and linens. Clean towels, coverings, and linens shall be stored in cabinets. Towels and linens shall not be used on more than one (1) patron, unless they have first been laundered and disinfected. Disposable towels and coverings

shall not be used on more than one patron. Soiled linens and paper towels shall be deposited in separate, marked receptacles.

F. Adequate bathing, dressing, locker, and toilet facilities shall be provided for patrons. All shower, toilet, and washing facilities shall be thoroughly cleaned and disinfected with a disinfectant approved by the Health Department as needed, and at least once each day the premises are open.

G. If wet and dry heat rooms, steam and vapor rooms, cabinets, tanning booths, whirlpool baths and pools are offered, they shall be thoroughly cleaned and disinfected with a disinfectant approved by the Health Department as needed, and at least once each day the premises are open. Bathtubs shall be thoroughly cleaned after each use with a disinfectant approved by the Health Department. All walls, ceilings, floors, and other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition.

H. Instruments for performing massage shall not be used on more than one patron unless they have been sterilized, using approved sterilization methods. Each operator and/or on-duty manager shall provide and maintain on the premises adequate equipment for disinfecting and sterilizing instruments used in massage.

I. All managers, employees, and massage therapists shall be clean, and wear clean, nontransparent outer garments that continuously cover the area from the bottom of the neck to the top of the kneecap. All managers, employees, and massage therapists shall remain clothed while on the massage establishment premises, and shall not expose their genitals, pubic area, buttocks, or breasts. Massage therapists shall maintain a CAMTC certificate identification card clearly visible on their person during business hours.

J. No person shall enter, be or remain in any part of a massage establishment while in possession of, consuming, or using any alcoholic beverage or drugs except pursuant to a prescription for such drugs. The operator and manager shall not permit the storage of alcoholic beverages or condoms upon such premises.

K. All exterior doors (except a rear entrance for employees only) shall remain unlocked during business hours, unless there is no massage establishment staff available to assure the security of clients and massage therapists who are behind closed doors.

L. No massage establishment or accessory use locations employing massage therapists shall be equipped with tinted or "one-way" glass in any room or office.

M. Every operator or manager shall report to the City any change of employees, whether by new or renewed employment, discharge or termination, on the form and in the manner required by the City. The report shall contain the name of the employee and the date of hire or termination. The report shall be made within five (5) days of the date of hire or termination.

N. The operator and/or on-duty manager shall consent to the unannounced inspection of the massage establishment by the City and the County Fire, Sheriff and Health Departments for the purpose of determining that the provisions of this Chapter or other applicable laws or regulations are met.

1. The City and the County Fire, Sheriff and Health Departments may, from time to time, make an unannounced inspection of each massage establishment for the purpose of determining that the provisions of this Chapter, state law or other applicable laws or regulations are met. Criminal investigations may be conducted as directed by the Sheriffs Department. The Sheriffs Department and/or City may inspect the occupied massage rooms for the purpose of determining that the provisions of this Chapter are met. During an inspection, the Sheriffs Department and/or the City may verify the identity of all on-duty managers, therapists, and employees.

2. An operator, manager, massage therapist, or employee is prohibited from refusing to permit an inspection of the massage establishment premises by a representative of the City or Los Angeles County regulatory official at anytime it is occupied or open for business, as required by this Section.

O. Common use of towels or linens shall not be permitted. Towels and linens shall be laundered or changed promptly after each use. Separate enclosed cabinets shall be provided for the storage of clean and soiled linen and shall be plainly marked "clean linen" and "soiled linen" and shall have doors or covers.

P. No person or persons shall be allowed to live inside the massage establishment at any time.

Q. No electrical, mechanical or artificial device shall be used by the operator, manager, therapist, or any employee of the massage establishment for audio and/or video recording or for monitoring the performance of a massage, or the conversation or other sounds in the massage rooms.

R. The operator or on-duty manager of the massage establishment shall keep a complete and current list of the names, residence addresses, and telephone numbers of all massage therapists and employees of the massage establishment and the name, residence address and telephone number of the manager purported to be principally in charge of the operation of the massage establishment. This roster shall be written in English, kept on the premises and be available for inspection by any official charged with enforcement of this Chapter.

S. Each massage establishment shall provide to all customers clean, sanitary and opaque coverings capable of covering the patrons' specified anatomical areas including the genital and pubic areas, anus and female breast. No common use of such coverings shall be permitted and re-use is prohibited unless adequately cleaned.

T. Massage establishments may not be open for operation before 8:00 a.m. or after 10:00 p.m. A massage begun any time before 10:00 p.m. must nevertheless terminate at 10:00 p.m. All customers and visitors shall be excluded from the massage establishment by that time. The hours of operation must be displayed in a conspicuous

public place in the lobby within plain view of the entrance and clearly visible from the outside.

U. No massage establishment shall place, publish, 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 customers that any service is available other than those services described in this Chapter. No massage establishment shall employ language in the text of such advertising that would reasonably suggest to prospective customers that any service is available other than those services authorized by this Chapter.

V. No person shall engage in, conduct, or carry on the business of a massage establishment unless there is on file with the City Clerk, in full force and effect at all times, documents issued by an insurance company authorized to do business in the State of California evidencing that the licensee is insured under a liability insurance policy providing minimum coverage of one hundred thousand (\$100,000.00) dollars for injury or death to one (1) person arising out of the operation of any massage establishment and the administration of a massage.

W. All massage establishments must comply with all state and federal laws and regulations for persons with a disability, including all applicable anti-discrimination laws.

X. No person(s) other than valid CAMTC certificate holders, employees, customers, vendors and service providers will be allowed beyond the front lobby, located directly inside the front door entrance during hours of operation.

Y. Minimum lighting shall be provided in accordance with Article 220 of the National Electrical Code, and, in addition, at least one (1) artificial light of not less than forty (40) watts shall be illuminated in each room or enclosure where massage services are performed on customers.

Z. Massages shall be administered only on standard massage tables, and not on pads or beds. Pads used on massage tables shall be covered with a durable washable plastic or other waterproof material acceptable to the Health Department.

#### **Section 5.24.070 Change of Location or Name Separate Location.**

A. Any change of location of any massage establishment must first be approved by the City who must determine, prior to approval that all ordinances and regulations of the City will be complied with at any proposed new location.

B. Where a person holding a business license issued under the provisions of this Chapter changes the name of the massage establishment, such person must make an application to the City and pay a fee in an amount set by City Council resolution to have said business license amended to reflect the change of name.

C. No CAMTC certificate holder or massage establishment shall operate under any name or conduct any establishment under any designation not specified in the CAMTC certificate or business license issued pursuant to this Chapter.

D. Any application for an extension or expansion of a building or other place of business of a massage establishment shall require compliance with the City's zoning regulations.

E. A separate business license shall be required for each location of a massage establishment.

F. If during the life of a massage establishment business license the licensee has any change in information concerning the original application, notification of such change(s) must be made to the City, in writing, within thirty (30) days of the change(s)."

#### **Section 5.24.080 Appeals.**

##### **A. License Denial.**

1. An applicant may appeal the business license officer's denial of a license or license renewal by filing a written notice of appeal with the City Clerk setting forth the grounds for disagreement with the decision within 10 days of the date of the decision. The appeal must be accompanied by the applicable appeal fee.

2. The City Clerk will then fix a time and place for the hearing of such appeal before the City Manager, and must give notice to the appellant of the time and place of the hearing by certified mail or personal delivery to the appellant at the address provided in the appeal.

3. At the hearing, the City Manager will have authority to determine all questions raised on such appeal, provided that no such determination may conflict with any substantive provision of this code or other applicable law. The decision of the City Manager will be final, and will be effective upon the date that written notice of the decision is sent by certified mail or personally delivered to the appellant.

##### **B. License Revocation or Suspension.**

1. A licensee may appeal the City Manager's revocation or suspension order by filing a written notice of appeal with the City Clerk setting forth the grounds for disagreement with the decision within 10 days of the date of the revocation or suspension order. The appeal must be accompanied by the applicable appeal fee established by City Council resolution.

2. If an appeal of a revocation or suspension order is timely filed, the matter will be scheduled for a hearing within a reasonable time before a city-appointed administrative hearing officer. The filing of such appeal will stay the revocation or suspension order until a final decision is made by the hearing officer. The licensee, and any other persons requesting notice must be given at least 10 days' written notice of the time and place of such hearing.

3. At the hearing, the hearing officer will determine whether a sufficient basis exists for the revocation or suspension of the license based upon the complaint, applicable staff reports, the revocation or suspension order, and such other evidence as may be presented that is relevant to the proceedings. The licensee will be given a

reasonable opportunity to be heard in conjunction with the revocation or suspension proceedings. The burden of proof will be upon the City to show that the facts and evidence is sufficient to constitute a basis for revocation or suspension of the license. The proceedings before the hearing officer will be an informal administrative hearing and the rules of evidence, as generally applied in judicial proceedings, will not be applicable. However, City officials or representatives and the licensee will have the right of subpoena.

4. The hearing officer must issue a written decision on the appeal within 10 days of the conclusion of the hearing unless the City and the licensee agree to a different deadline. Notice of such decision must be provided to the licensee by certified mail or personal delivery.

5. The decision of the hearing officer will be effective upon the date of mailing or personal delivery of the decision, and will be final.”

### **SECTION 3. Compliance Period.**

A. Any person or massage establishment currently practicing massage or operating a massage establishment in the City of Rosemead with a valid City of Rosemead business license and permit will have until May 31, 2011 to obtain a new business license under the amended provisions of Chapter 5.24. All other persons and massage establishments must comply with Chapter 5.24 as amended.

B. Each person that holds a valid massage technician permit issued by the City as of the date this ordinance takes effect will have until May 31, 2011 to comply with the CAMTC certification requirements of the amended provisions of Chapter 5.24.

**SECTION 4. Penalty.** In accordance with Rosemead Municipal Code Section 1.16.010, in addition to the availability of all other remedies and penalties provided in this code for code violations, a violation of the provisions of Chapter 5.24, if charged criminally, will be a misdemeanor.

**SECTION 5. Environmental Review.** The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

**SECTION 6. Severability.** If any section, subsection, phrase, or clause of this ordinance shall be deemed by a court of competent jurisdiction to be invalid for any reason, the validity of the remaining sections, subsections, phrases, or clauses of this ordinance shall not be affected thereby.

**SECTION 7. Repeal of Ordinance No. 900.** Upon the effective date of this ordinance, Ordinance No. 900, establishing a temporary moratorium on the issuance of licenses and permits for new massage establishments and technicians, will be deemed repealed.

PASSED, APPROVED, and ADOPTED this 12<sup>th</sup> day of April, 2011.

\_\_\_\_\_  
Steven Ly, Mayor

ATTEST:

\_\_\_\_\_  
Gloria, Molleda, City Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
Rachel H. Richman, City Attorney

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    )       SS.  
CITY OF ROSEMEAD            )

I, Gloria Molleda, City Clerk of the City of Rosemead, do hereby certify that the Ordinance No. 913 was duly and regularly approved and adopted by the Rosemead City Council on the \_\_\_\_\_ of \_\_\_\_\_ 2011, by the following vote to wit:

Yes:

No:

Absent:

Abstain:

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Gloria Molleda  
City Clerk