

**ORDINANCE NO. 2292**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF SOUTH PASADENA, CALIFORNIA,  
REPEALING ARTICLE II (MESSAGE ESTABLISHMENTS),  
ADDING A NEW ARTICLE II (MESSAGE ESTABLISHMENTS), AND  
ADDING A NEW ARTICLE III (DEEMED APPROVED MESSAGE  
ESTABLISHMENTS) OF CHAPTER 17 (HEALTH AND SANITATION),  
AMENDING SECTION 36.700.020 (DEFINITIONS OF SPECIALIZED TERMS  
AND PHRASES) OF ARTICLE VII (DEFINITIONS) OF CHAPTER 36 (ZONING)  
BY ADDING A NEW DEFINITION OF "MESSAGE ESTABLISHMENT" AND  
DELETING "MESSAGE" FROM THE DEFINITION OF "PERSONAL  
SERVICES," AMENDING SECTION 36.230.030 ("COMMERCIAL DISTRICT  
LAND USES AND PERMIT REQUIREMENTS") TABLE 2-4 OF CHAPTER 36  
("ZONING") OF THE SOUTH PASADENA MUNICIPAL CODE,  
AND REPEALING ORDINANCE NO. 2267 MORATORIUM  
ON ESTABLISHMENT OR EXPANSION OF  
MESSAGE ESTABLISHMENTS**

**THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA,  
CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** South Pasadena Municipal Code (SPMC) Article II ("Message Establishments"), of Chapter 17 ("Health and Sanitation") is repealed and replaced with a new Article II ("Message Establishments") to read:

**ARTICLE II. MESSAGE ESTABLISHMENTS**

**17.13 Findings and purpose.**

The City Council finds and declares as follows:

- (a) The permit requirements and restrictions imposed by this chapter are reasonably necessary to protect the health, safety and welfare of the citizens of the City.
- (b) The City is authorized, by virtue of the Constitution of the state of California, and Section 51031 of the California Government Code, to regulate massage establishments by imposing reasonable standards for, and conditions on, the operation of massage establishments.
- (c) There is opportunity for acts of prostitution and other unlawful sexual activity to occur in massage establishments. Courts have long recognized massage as a pervasively regulated activity and that massage establishments have been known to be brothels in disguise and even engage in human trafficking. The establishment of reasonable standards for issuance of permits and restrictions on

operations would serve to reduce the risk of illegal activity, including human trafficking.

- (d) The restrictions and requirements contained in this chapter are intended to reduce the burden of massage establishment regulation on the police department.
- (e) The regulations and restrictions contained in this chapter are intended to discourage massage establishments from degenerating into houses of prostitution and the means utilized in this chapter bear a reasonable and rational relationship to the goals sought to be achieved.

#### **17.14 Definitions.**

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

“Adult oriented merchandise” means sexually oriented implements or paraphernalia, such as, but not limited to: dildos, auto sucks, sexually-oriented vibrators, Ben Wa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery operated vaginas, and similar sexually-oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sado-masochistic activity.

“Chief of Police” means the Chief of Police of the City of South Pasadena, or designee.

“City” means the city of South Pasadena.

“City Council” means the City Council of the City of South Pasadena.

“City Manager” means the City Manager of the City of South Pasadena, or designee.

“Conviction,” or “convicted” means a guilty plea, guilty verdict or a conviction following a plea of nolo contendere.

“Customer area” means areas open to customers of the establishment or the general public.

“Employee” means any and all persons, other than an operator or manager, who renders any service, with or without compensation, for the owner, operator, manager or agent of either an owner, operator or manager of a massage establishment and who has no physical contact with customers or clients. For purposes of this chapter the term “employee” shall include independent contractors.

“Health department” means the Department of Public Health, County of Los Angeles.

“Lobby” means one room or designated area, adjacent to a public entry, which is used for an entry or waiting room for customers or other persons authorized to enter the premises.

“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 corresponding liabilities and responsibilities. Evidence of

management includes, but is not limited to, evidence that the individual has the 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 owner. A manager must meet the standards and qualifications of sections 17.17 and 17.18 to qualify as a manager.

“Massage” means any method of manipulating the soft tissues of the human body for remedial, health, hygienic, relaxation or any other reason or purpose, whether by means of pressure on, friction against or stroking, kneading, tapping, pounding, vibrating, rubbing or any other manner of touching external parts of the human 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 type of business or trade.

“Massage certificate” means a certificate to practice massage, issued by the California Massage Therapy Council (CAMTC) pursuant to the California Business and Professions Code sections 4600 et seq.

“Massage establishment” means any enterprise or establishment having a fixed place of business conducted within the City of South Pasadena, where any person, firm, association, partnership, corporation, or combination of individuals, engages in, conducts, carries on or permits to be conducted or carried on, for money or any other consideration, the administration to another person of a massage, bath or health treatment involving massages or baths including, but not limited to, fomentation, electric or magnetic treatments, alcohol rubs, or any other type of system for treatment or manipulation of the human body with or without any character of bath, such as Turkish, Russian, Swedish, Japanese, vapor, shower, electric tub, sponge, mineral, fomentation, or any other type of bath.

“Massage room” means a cubicle, booth, room or enclosed or semi-enclosed area within a massage establishment where massage services are performed on patrons.

“Massage technician” means any person who administers to another person a massage as defined herein, within a massage establishment for any form of consideration or in exchange for anything of value whatsoever. The terms “massage therapist,” “massage practitioner,” “massage trainee,” “masseur” or “masseuse” are included within this definition for purposes of this chapter.

“Operator” means all persons who have an ownership interest in the massage establishment. An operator may also be a manager or an owner. A proposed operator shall provide all of the information required for and meet all of the standards set forth in sections 17.17 and 17.18 to qualify as an operator.

“Operator’s permit” means the permit issued pursuant to the provisions of this chapter required to operate or manage a massage establishment.

“Out call massage” means a massage performed or administered for money or other consideration by a licensed massage technician at a location other than a licensed massage establishment.

“Owner” means the individual(s) whose name appears on the city business license and includes any and all persons who have any ownership interest in a massage establishment. An owner may also be an operator or manager.

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

“Police department” means the police department of the City of South Pasadena.

"Specified anatomical areas" means and includes any of the following human anatomical areas: genitals, pubic regions, anuses, and female breasts below a point immediately above the top of the areola.

#### **17.15 Permits required.**

- (a) Operator’s Permit. Except as otherwise provided herein, it shall be unlawful for any person to engage in, conduct or carry on, or to permit the engagement in, conduct of or carrying on the business or operation of a massage establishment within the City without first obtaining an operator’s permit pursuant to the provisions of this Chapter, and complying with all other applicable provisions of this Code, including, but not limited to, securing the necessary business licenses as required by Chapter 18 of this Code.
- (b) Conditional Use Permit. A Massage Establishment may operate only in zones for which such use is permitted pursuant to Chapter 36 of this Code, and only with a valid Conditional Use Permit. Any Conditional Use Permit issued for a Massage Establishment shall expire upon the revocation, termination or expiration of the Operator's Permit for the Massage Establishment. No Conditional Use Permit shall be approved for any massage establishment proposed to be located with a radius of 1,000 feet from any existing legally operating massage establishment.
- (c) All persons or businesses providing massage to the public for any form of compensation shall apply for and obtain a business license pursuant to Chapter 18 of this Code.
- (d) A massage certificate. No massage technician may practice massage in the City of South Pasadena without first obtaining a massage certificate.

#### **17.16 Exceptions.**

The requirements of this chapter shall not apply to the following individuals while engaged in performing the duties of their respective professions:

- (a) Physicians, surgeons, chiropractors, physical therapists or osteopaths duly licensed to practice their respective professions in the State of California. This exemption only applies if the massage is performed by the licensed professionals or by a staff member of said licensed professionals in the course of treatment

prescribed by said professional and only when the prescribing professional is present on the premises;

- (b) Acupuncturists who are duly licensed to practice their respective profession in the State of California. The exemption herein only applies if the massage therapy is performed by the licensed acupuncturist professional to the treated portion of the patient's body. If a duly licensed acupuncturist wishes to provide massage therapy by another individual(s), said individual(s) must obtain and possess a valid massage certificate and the acupuncturist office must obtain an operator's permit from the City of South Pasadena in compliance with all codes and the California Acupuncture Board;
- (c) A registered or licensed vocational nurse working on the premises of, and under the direct supervision of, a state licensed physician, surgeon, chiropractor or osteopath. Practical nurses or other persons not licensed by the state of California under Division 2 of the California Business and Professions Code or the CAMTC under California Business and Professions Code sections 4600 et seq., whether or not employed by physicians, surgeons, chiropractors, osteopaths, acupuncturists, or physical therapists, may not provide massage services or act as a massage technician;
- (d) Hospitals, nursing homes, sanatoriums, or other health care facilities duly licensed by the State of California;
- (e) Barbers, beauticians and manicurists who are duly licensed by the State of California while engaging in the practice within the scope of their respective licenses, except that this exemption applies solely for the massaging of the neck, face or scalp of the customer or client of said barber or beautician or in the case of a licensed manicurist, the massaging of the forearm, hands, calves or feet;
- (f) Coaches and trainers while acting within the scope of their employment at an accredited high school, junior college, college, or university ;
- (g) Trainers of amateur, semi-professional or professional athletes or athletic teams while acting within the scope of their role as trainer.

#### **17.17 Operator's permit—Application.**

- (a) Any person desiring to obtain a permit to operate a massage establishment shall submit a written application, signed under penalty of perjury to the finance director using a form specifically adopted by the finance director for that purpose. The application shall be accompanied by a nonrefundable filing fee established by resolution of the City Council to defray the cost of the investigation required by this chapter.
- (b) The application shall be completed and signed by the owner of the proposed massage establishment, if a sole proprietorship, or, if the applicant is a corporation or partnership, it shall designate one of its officers or general partners

as its authorized representative. The authorized representative shall complete and sign all application forms required for an individual applicant under this chapter.

- (c) The application and fee required pursuant to this section shall be in addition to any other license, permit or fee required by any other chapter of this Code or ordinance hereafter adopted. Only one application fee shall be charged regardless of the number of owners or operators designated in the application.
- (d) The application for a permit does not authorize the operation of a massage establishment unless and until such permit has been properly granted, nor does the possession of a valid operator's permit authorize the possessor to perform work for which a massage certificate is required.
- (e) The application for an operator's permit shall contain or be accompanied by the following information, which shall be required of each owner of the business whenever required of the "applicant":
  - (1) The type of ownership of the business (individual, partnership, corporation or otherwise):
    - (A) 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 of each of its current officers, directors and each stockholder holding more than five percent of the stock of that corporation,
    - (B) If the applicant is a partnership, the application shall set forth the name and residence addresses of each of the partners, including limited partners,
    - (C) If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership filed with the Secretary of State. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply;
  - (2) The true full and precise name under which the massage establishment is to be conducted;
  - (3) The present or proposed address where the massage establishment is to be conducted and all telephone numbers for the massage establishment;
  - (4) A complete current list of the names and residence addresses of all proposed massage technicians, aides, trainees and other employees who are or will be employed in the massage establishment, if known. If not known at the time of submission of the application, the applicant shall provide the required information no later than ten calendar days prior to opening for business;
  - (5) The name and residence addresses of the proposed operator or manager who will be principally in charge of the operation of the massage establishment;

- (6) A description of any other business operated on the same premises as the proposed massage establishment, or within the city or the state, which is owned or operated by the owner or operator;
- (7) The name and address of the owner and lessor of the real property upon or in which the proposed business 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 affidavit from the owner of the property acknowledging that a massage establishment will be located on his or her property;
- (8) The complete business, occupation and employment history for eight years preceding the date of application for the applicant and proposed operator or manager, including, but not limited to, a massage establishment or similar type of business history and experience of the applicant and proposed operator or manager;
- (9) The complete massage permit history for the applicant and proposed operator or manager; whether such person has ever had any similar type of permit or license issued by any agency, board, city, county, territory or state; the date of issuance of such a permit or license, whether the permit or license has been or was ever denied, revoked or suspended; if a vocational or professional license or permit has been or was ever denied, revoked or suspended; if the applicant has ever been required to surrender a permit or license as a result of pending criminal charges or in lieu of said permit or license being suspended or revoked and the reason therefor;
- (10) All criminal convictions of the applicant, including pleas of nolo contendere, within the last ten years including those convictions dismissed or expunged pursuant to Penal Code Section 1203.4, but excluding minor traffic violations, and the date and place of each such conviction and reason therefor;
- (11) A complete set of fingerprints taken by the police department for each applicant and proposed operator or manager. The applicant shall be responsible for payment of any fingerprinting fee;
- (12) Two portrait photographs at least two inches by two inches in size taken within the last month for each applicant and proposed operator or manager;
- (13) Authorization for the City, its agents and employees to seek verification of the information contained in the application;
- (14) Such other identification and information as the Chief of Police may reasonably require in order to discover the truth of the matters herein specified and as required to be set forth in the application;
- (15) A statement in writing and dated by the person providing the information that he or she certifies under penalty of perjury that all information contained in the application is true and correct;

- (16) A certificate of compliance from any department or agency with authority or jurisdiction over the building in which the massage establishment is to be located, including but not limited to, the City's planning and building department, must be submitted prior to the application's final approval. Any required inspection fees shall be the sole responsibility of the applicant. If the certificates of compliance are not received by the finance director or his or her designee, within ninety calendar days of the date of filing of the application, said application shall be deemed void. If any land use permit or other entitlement for the use of the property as a massage establishment is required, such permit or use entitlement shall be obtained by the applicant prior to the massage establishment permit becoming effective.
- (f) Every owner and operator shall also provide the following personal information:
- (1) The owner or operator's full, true name and all aliases used;
  - (2) Date and place of birth, California driver's license, California identification card, Social Security card and resident alien card, if applicable;
  - (3) The current residence address and residence telephone number and all previous residential addresses for a minimum of eight years immediately preceding the present address of the applicant and the dates of residence for each address;
  - (4) Acceptable written proof that the owner and operator is at least eighteen years of age;
  - (5) Height, weight, gender and color of hair and eyes.
- (g) If, during the term of a permit, the permittee has any change in information submitted on the original or renewal application, the permittee shall notify the police department in writing of any such change within ten business days thereafter.
- (h) If an owner or operator also desires to act as a massage technician or out call massage technician, he or she shall also satisfy the requirements for the respective permit set forth in this chapter.

#### **17.18 Operator Examination required.**

- (a) Every operator shall be required to take and pass a written test assessing knowledge of the requirements of this chapter to ensure a complete understanding of the duties of a massage establishment owner, operator, manager or employee's respective duties prior to issuance of an operator's permit or before engaging in business as a massage establishment.
- (b) The Chief of Police shall establish standards and procedures governing administering, grading and noticing of the examination required by this section.

- (c) The examination shall consist solely of a written test regarding the rules and regulations for massage establishments and employees as set forth in this chapter. The examination shall be prepared, conducted and graded by the City, or in its sole discretion, by a competent instructor certified by the Council for Private Post-Secondary and Vocational Education pursuant to Education Code Section 94311.1.
- (d) A score of seventy percent or better is required on each section of the written test. An applicant who fails the examination shall not be eligible to take another examination until sixty calendar days after the previous examination. An applicant who fails to pass upon a second attempt, shall not again be eligible until six months thereafter. If an applicant has three or more sustained municipal code violations during any permit period, the applicant, upon renewal, must retake and pass the written examination designated in this chapter.
- (e) The examination will be in the English language. In the event the applicant requires that any section of the examination be given in another language, the applicant shall pay any additional fees or costs for a court-certified and South Pasadena approved interpreter to interpret the examination. Proof of valid court certification must be provided to the Chief of Police prior to the administration of any such non-English language examination.

#### **17.19 Operator's permit—Issuance or denial.**

- (a) Upon receipt of a complete written application for a permit, the Chief of Police or designee shall conduct an investigation to ascertain whether a permit should be issued as requested. The Chief of Police or designee, shall, within ninety calendar days of receipt of an application, approve, conditionally approve or deny the application. The ninety-day period may be extended for up to thirty additional calendar days, if necessary, to complete the investigation. The Chief of Police at that time may issue such permit as requested, unless he or she makes any of the following findings:
  - (1) The applicant has not passed the written examination as required by this chapter;
  - (2) The applicant, or any of the officers or directors of the corporation, a partner or any person directly engaged or employed in the massage establishment, has within eight years preceding the date of the application:
    - (A) Been convicted of a violation of any provision of law pursuant to which a person is required to register under the provisions of Penal Code Section 290, or conduct in violation of California Penal Code Sections 266h, 266i, 314, 315, 316, 318, subsections (a), (b), (d) or (h) of Penal Code Section 647, Penal Code 288(a) or convicted of an attempt to commit, or conspiracy to commit, any of the above mentioned offenses, or any other crime involving dishonesty, fraud, deceit, or moral turpitude or when the

- prosecution accepted a plea of guilty or nolo contendere to a charge of a violation of California Penal Code Sections 415, 602 or any lesser included or related offense, in satisfaction of, or as a substitute for, any of the previously listed crimes, or any crime committed while engaged in the ownership of a massage establishment or the practice of massage,
- (B) Been convicted of a violation of Health and Safety Code Section 11550 or any offense involving the illegal sale, distribution or possession of a controlled substance specified in Health and Safety Code Section 11054, 11055, 11056, 11057 or 11058,
  - (C) Been convicted of any offense in any other state, which is the equivalent of any of the abovementioned offenses,
  - (D) Been subjected to a permanent injunction against the conducting or maintaining of a nuisance pursuant to Sections 11225 through 11235 of the California Penal Code, or any similar provisions of law in a jurisdiction outside the state of California,
  - (E) Committed an act in another jurisdiction which, if committed in this state, would have been a violation of law and, which, if done by a permittee under this chapter, would be grounds for denial, suspension or revocation of the permit,
  - (F) Has had a massage operator or massage certificate or other similar license or permit denied, suspended or revoked for cause by the city, any state, local agency or other licensing authority, or has had to surrender a permit or license as a result of pending criminal charges or in lieu of said permit or license being suspended or revoked,
  - (G) Has engaged in conduct, which would constitute grounds for suspension or revocation under Section 17.43 of this Chapter;
- (3) The owner or operator has made a false, misleading or fraudulent statement or omission of fact to the city in the permit application process;
  - (4) The application does not contain all of the information required by Section 17.17;
  - (5) The owner or operator is not at least eighteen years of age;
  - (6) The massage establishment as proposed does not comply with all applicable laws, including, but not limited to, health, zoning, fire and safety requirements and standards;
  - (7) The required fee(s) has not been paid or all other requirements of this chapter have not been satisfied in the time specified.
- (b) If the application is denied for failure to comply with subsection (a)(2) or (3) of this Section, the applicant may not reapply for a period of twenty-four months from the date the application was denied.

- (c) If the Chief of Police, upon completion of the investigation, determines that the applicant does not fulfill the requirements as set forth in this Chapter, the Chief of Police shall deny said application by dated written notice to the applicant. The applicant shall have the right of appeal as set forth in Section 17.39.

**17.20 Operating requirements—General conditions.**

All massage establishments shall comply with the following general conditions and any other conditions specified by the Chief of Police which are consistent with state law.

- (a) No person granted a permit pursuant to this chapter shall use any name or conduct business under any name or designation not specified in his or her permit.
- (b) No massage establishment shall employ a massage technician in that capacity who does not possess a current and valid CAMTC certification.
- (c) All massage establishments required to be licensed under this chapter shall have a manager on the premises at all times when the massage establishment is open. The operator of each massage establishment shall file a statement with the finance director or designee, designating the person or persons with power to act as a manager. The operator or on duty manager shall post, on a daily basis, the name and photograph (a minimum size of four inches by six inches) of each on-duty manager and each on-duty massage technician in a conspicuous public place in the lobby of the massage establishment. The operator, or the manager in the operator's absence, shall be responsible for ensuring compliance with this chapter.
- (d) The operator's permit shall be displayed in a conspicuous public place in the lobby of the massage establishment.
- (e) The hours of operation must be posted in the front window and clearly visible from the outside.
- (f) No massage establishment required to be licensed under this chapter shall open for business without having at least one massage technician who holds a current valid massage certificate for that specific massage establishment. There shall be at least one massage technician who holds a current valid massage certificate on the premises, and on duty, at all times when the establishment is open.
- (g) The operator or manager shall ensure that the massage certificate for each on-duty massage technician is conspicuously displayed in a public place in the lobby and that each massage technician is wearing the identification required by section 17.32(b) at all times when working in the massage establishment. Such identification shall be provided to a city official upon demand.
- (h) An operator or manager shall be responsible for the conduct of all employees while they are on the massage establishment premises. Any act or omission of any employee or independent contractor constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator or manager for

purposes of determining whether the operator's license shall be revoked, suspended, denied or renewed.

- (i) No operator or manager shall employ any person as a massage technician who does not have a massage certificate in good standing. Every operator or manager shall report to the Chief of Police or designee, any change of employees, whether by new or renewed employment, discharge or termination, on the form and in the manner required by the Chief of Police. The report shall contain the name of the employee and the date of hire or termination. The report shall be made within five calendar days of the date of hire or termination. The operator or manager shall deliver notice of the termination of any massage technician no longer employed by the operator or manager to the Chief of Police or designee, within five calendar days of termination.
- (j) All employees, including massage technicians, shall, at all times while on the business premises, wear clean clothing that is not transparent, see-through or which substantially exposes undergarments, breasts, buttocks or genitals or any manner that constitutes a violation of Section 314 of the Penal Code. Swim attire is not permitted unless providing a water-based massage modality approved by 10.5 of the Business and Professions Code. Massage technicians shall maintain the massage certificate badge visibly on their person affixed to the right front of their clothing at all times during business hours.
- (k) It is unlawful for owners or employees of massage establishments or out call massage services, or massage technicians, to conduct or allow any of the following activities:
  - (1) It is unlawful for any massage practitioner or technician or any other employee working in a massage establishment or for an out call massage service, or customers, patrons, or guests of the establishment or service, to engage in any specified sexual activities upon the premises of the massage establishment or the out call massage location.
  - (2) It is unlawful for any massage technician or other employee of a massage establishment to expose specified anatomical areas in the presence of any client, patron, customer, or guest.
  - (3) In the course of administering the massage, it is unlawful for any massage practitioner or technician or other massage establishment employee to make intentional physical contact with the specified anatomical areas of any customer, patron or guest.
- (l) The operator or manager shall maintain a register of all employees. The employee register shall be maintained on the premises for a minimum period of two years following an employee's termination. The operator or manager shall make the employee register immediately available for inspection upon demand of a representative of the police department at all reasonable times. The employee register shall include, but not be limited to, the following information:

- (1) The name, nicknames or aliases used by an employee;
  - (2) The employee's home address and relevant phone numbers (including, but not limited to, home, cellular and pager numbers);
  - (3) The employee's age, date of birth, gender, height, weight, color of hair and eyes;
  - (4) The employee's Social Security number;
  - (5) The date of employment and termination, if any;
  - (6) The massage technician's CAMTC certification information;
  - (7) The duties of each employee.
- (m) No massage establishment shall operate as a school of massage, or use the same facilities as that of a school of massage.
- (n) At all times, the operator, manager and employees shall comply with all provisions of this Chapter and any applicable provisions of this Code.

#### **17.21 Operating requirements—Facilities.**

All massage establishments shall comply with the following operating requirements for facilities and any other conditions specified by the Chief of Police:

- (a) **Structure.** Massage establishments shall be carried on in a structure, which is located in a zoning district, which permits such use. When a massage establishment is newly constructed, three sets of plans shall be submitted to the city and the county health care agency for approval and shall be accompanied by the appropriate plan check fee.
- (b) **Signs.** Any signs shall be in conformance with the current sign ordinances of the city. Each operator or manager shall post and maintain, adjacent to the main entrance and the front of the business, a readable sign identifying the premises as a massage establishment. The sign, and the front of the business, shall not be illuminated by strobe or flashing lights.
- (c) **Services List.** Each operator or manager shall post and maintain a list of services available and the cost of such services in the lobby of the massage establishment in a conspicuous public place and in any other location on the premises as the operator or manager deems appropriate. No operator or manager shall permit, and no massage technician shall offer or perform, any service other than those posted.
- (d) **Lighting.** Minimum lighting for a massage establishment shall be provided in accordance with Title 24 of the California Building Code or successor provision or provisions. The lighting in each massage room shall be not less than 800 lumens and shall be activated at all times while the patron is in a massage room. No strobe, flashing lights or dimmer switches shall be used. No colored lights shall be used nor shall any coverings be used which change the color of the primary light source.

- (e) Ventilation. The operator or manager shall provide in each massage room, minimum ventilation in accordance with the requirements of the 2013 California Building Code (CCR Title 24, Part 2, Volume 1 of 2) or successor provision or provisions.
- (f) Toilet Facilities. A minimum of one toilet and one separate wash basin shall be provided for patrons in each massage establishment, which basin shall provide soap or detergent and hot and cold running water at all times and shall be located within close proximity to the massage rooms. A permanently installed soap dispenser, filled with soap, and a single service towel dispenser shall be provided at the restroom washbasin. Bar soaps shall not be used. A trash receptacle shall be provided in each toilet room.
- (g) Bathing, Dressing and Locker Facilities. A minimum of one dressing room containing a separate locker capable of being locked, shall be provided for patrons to be served at the massage establishment. If a shower is included in the premises or otherwise required as a condition of approval, the shower facility shall be equipped with soap or detergent and hot and cold running water at all times and shall be located within close proximity to the massage rooms. Bar soaps shall not be used.
- (h) Separate Rooms. If male and female patrons are to be treated simultaneously at the same massage establishment separate massage rooms, dressing, bathing and toilet facilities shall be provided for male and female patrons. Each separate facility or room shall be clearly marked as such.
- (i) Maintenance. Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bath rooms, tanning booths, whirlpool baths and pools shall be thoroughly cleaned and disinfected with a disinfectant approved by the county health department, as needed, but at least once each day the premises are open. All facilities for the massage establishment must be in good repair and shall be thoroughly cleaned and sanitized at least on a daily basis when the business is in operation. All walls, floors and ceilings of each restroom and shower area shall be constructed with materials that are smooth and easily cleanable. No carpeting shall be installed in any of these specified areas.
- (j) Massage Tables. A massage table shall be provided in each massage room and all massages shall be performed on the massage table. The tables should have a minimum height of eighteen inches. Two-inch thick foam pads with a maximum width of four feet may be used on a massage table and must be covered with durable, washable plastic or other waterproof material acceptable to the county health department. Beds, floor mattresses and waterbeds shall not be permitted on the premises.
- (k) Front Door. One front door that enters into the lobby or other waiting room shall be provided for customer use. All customers and any other persons other than

employees shall be required to enter and exit through the front door of the establishment.

**17.22 Operating requirements—Operations.**

All owners, operators and managers, including those that have a massage certificate, shall comply with the following operating requirements and any other conditions specified by the Chief of Police.

- (a) Equipment. Each operator or manager shall provide and maintain on the premises adequate equipment for disinfecting and sterilizing instruments used in massage.
- (b) Linen. Common use of towels or linen shall not be permitted. Towels and linen 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.
- (c) Living Quarters Prohibited. No person or persons shall be allowed to reside, dwell, occupy or live inside the massage establishment at any time. Living quarters, if any, shall be completely separate from the massage establishment.  
Alcoholic Beverages and Drugs. No person shall enter, be in or on, or remain in or on, any part of a massage establishment while in possession of, consuming, using or under the influence of, any alcoholic beverage or controlled substance. The operator or manager shall be responsible to ensure that no such person shall enter or remain upon the premises of the massage establishment. Service of alcoholic beverages is prohibited.
- (d) Adult Oriented Merchandise Prohibited. The use or possession of adult oriented merchandise in or on any part of a massage establishment is prohibited.
- (e) Recordings. No electrical, mechanical or artificial device shall be used by the operator or manager or any employee of the massage establishment for audio or video recording or for monitoring the performance of a massage, or the conversation or other sounds in the massage rooms without the knowledge and written consent of the patron.
- (f) Client Draping. Massage clients must wear some form of clothing or draping which ensures coverage of the genital area, anus and female breasts. No common use of such coverings shall be permitted and re-use is specifically prohibited unless adequately cleaned prior to its re-use.
- (g) Records. Every operator or manager shall keep a record of the dates and hours of each treatment or service, the name and address of the patron, the name of technician administering such service and a description of the treatment or service rendered. A short medical history form shall be completed by the operator or manager to determine if the patron has any communicable diseases, areas of pain, high blood pressure or any physical condition which may be adversely affected by massage. These records shall be prepared prior to administering any massage or treatment and shall be retained for a period of twenty-four months after such

treatment or service. These records shall be open to inspection upon demand only by officials charged with enforcement of this chapter or emergency personnel for emergency purposes and for no other purpose. The police department may periodically inspect the records to ensure compliance with this section. The information furnished or secured as a result of any such records shall be used only to ensure and enforce compliance with this chapter, or any other applicable state or federal laws and shall remain confidential. Any unauthorized disclosure or use of such information by any officer or employee of the city shall constitute a misdemeanor.

- (h) **Hours of Operation.** Massage operations shall be carried on or conducted, and the premises shall be open, only between the hours of seven a.m. and ten p.m. The operator or manager must advise the city, in writing, at the time of submission of the application for a massage establishment permit of the hours of operation within the times set forth above. The operator or manager shall notify the city, in writing, at least thirty calendar days prior to the date of the effective change, of any changes in the hours of operation. No person shall operate a massage establishment or administer a massage in any massage establishment or administer a massage pursuant to an off premises massage permit between the hours of ten p.m. and seven a.m. A massage begun any time before ten p.m. must nevertheless terminate at ten p.m. All customers, patrons and visitors shall be excluded from the massage establishment during these hours and be advised of these hours. The hours of operation must be displayed in a conspicuous public place in the lobby within the massage establishment and in the front window clearly visible from the outside.
- (i) **Advertising.** No massage establishment 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 customers or clients that any service is available other than those services described in this chapter and posted on the premises as required by this chapter, nor shall any massage establishment employ language in the text of any advertising that would reasonably suggest to a prospective patron that any service is available other than those services described in this chapter and posted on the premises as required by this chapter.
- (j) **Handicapped Areas.** All massage establishments must comply with all state and federal laws and regulations for handicapped customers.
- (k) **Compliance.** Proof of compliance with all applicable provisions of this Code shall be provided to any city official charged with enforcing or administering the provisions of this Chapter.
- (l) **Doors.** All exterior doors (except back or rear exterior doors used only for employee entrance to and exit from the massage establishment) shall remain unlocked during business hours unless the massage establishment is a sole proprietor with no employees or independent contractors. All interior doors (other

than bathroom doors), including but not limited to all doors leading to customer areas, the front reception, hallway or front exterior doors, shall not have any locking mechanisms. A door leading from the lobby area to customer areas, if any, shall not have any locking mechanism or be capable of being locked or blocked to prevent entry, in any manner.

- (m) **Massage and Dressing Room Doors.** All massage and dressing rooms shall be screened off by curtains, draw drapes, or in the alternative, swinging doors.. No massage may be given within any massage room within a massage establishment, which is fitted with a door capable of being locked.
- (n) **Access.** No person(s) other than the owner, operator, operator's employees, holders of valid massage certificates and customers will be allowed beyond the front lobby, which lobby shall be located directly inside the front door entrance, during the hours of operation. Any other person(s) found beyond the first interior door leading to the inside of the business including, but not limited to, hallways, massage rooms, reception or business offices or lounge area will be in violation of this section. Entry doors to any room shall not be obstructed by any means.
- (o) **Discrimination.** No massage establishment may discriminate or exclude patrons on the basis of race, sex, religion, age or handicap.
- (p) **Notices.** The following notice shall be posted in a conspicuous place in the massage establishment that is easily visible to any person entering the premises and in each massage room:

#### NOTICE TO ALL PATRONS

THIS MASSAGE ESTABLISHMENT AND THE MASSAGE ROOMS ARE NOT LOCKED FOR YOUR SAFETY AND PROTECTION. THIS ESTABLISHMENT IS SUBJECT TO INSPECTION BY THE SOUTH PASADENA POLICE DEPARTMENT WITHOUT PRIOR NOTICE.

The language for said notice set forth above may be amended by the Chief of Police. Every owner, operator or manager required to post such notice shall be required to pay for the cost of any and all notices required by this Section.

#### **17.23 Inspections.**

- (a) The Chief of Police and the County Health Department, or their authorized representatives, shall have the right to enter the massage establishment at any time during business hours for the purpose of making reasonable unscheduled inspections to observe and enforce compliance with applicable regulations, laws, and provisions of this Chapter. During an inspection, the police department may also verify the identity of all employees.
- (b) The City's Planning and Building Department, Fire Department, Police Department and the County Health Department may, from time to time, make an

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 Chief of Police. The police department may inspect the occupied massage rooms for the purpose of determining whether any unlawful activity prohibited by this Chapter is taking place, upon reasonable suspicion that such activity is taking place based on the officer's observations, or pursuant to a valid search warrant.

- (c) Inspections of the massage establishment shall be conducted during business hours.
- (d) An operator, manager, their agents, servants or employees commits a punishable offense if he or she refuses to permit, delays or interferes with a lawful inspection of the premises by a representative of the Police Department at any time it is occupied or open for business.

**17.24 Operator's permit—Nonassignability.**

No operator's permit may be sold, transferred or assigned by a permittee, or by operation of law, to any other person or persons. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such permit and such permit shall thereafter be null and void except as hereinafter set forth.

**17.25 Operator's permit—Change in ownership of business.**

- (a) One or more proposed partners in a partnership granted a permit hereunder may make application to the Chief of Police, together with the fee established by the City Council therefor, to amend the original application providing all information as required for partners in the first instance and, upon approval thereof, the transfer of the interests of one or more partners to the proposed partner or partners may occur. If the permittee is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such permit, and in such case, the permit, upon notification to the Chief of Police, shall be placed in the name of the surviving partners.
- (b) If the permit is issued to a corporation, stock may be sold, transferred, issued, or assigned to stockholders who have been named on the application. If any stock is sold, transferred, issued, or assigned to a person not listed on the application as a stockholder, the permit shall be deemed terminated and void; provided, however, the proposed transferee may submit to the Chief of Police, together with a fee established by the City Council, an application to amend the original application providing all information as required for stockholders in the first instance, and, upon approval thereof, the transfer may then occur.

**17.26 Operator's permit—Change of location or name.**

- (a) Every operator shall report immediately to the police department any and all changes of name or designation under which the business is to be conducted, and all changes of address or telephone numbers of the massage establishment. A change of location of the massage establishment may be approved by the Chief of Police provided there is compliance with all applicable regulations of the city and the new location is zoned for such a use.
- (b) No permittee shall operate, conduct, manage, engage in, or carry on the business of a massage establishment under any name other than the person's name and the name of the massage establishment specified in the permit.
- (c) Any application for an extension or expansion of a building or other place of business of a massage establishment shall require inspection(s) and shall comply with the provisions and regulations of this chapter and all other City ordinances including, but not limited to, zoning ordinances and building, safety and occupancy standards.

**17.27 Applicability to existing massage establishments.**

- (a) Commencing on the effective date of the ordinance codified in this chapter, all permits for a massage establishment are to be issued in accordance with the provisions of this chapter.
- (b) The provisions of this chapter shall be applicable to all persons and businesses described herein whether the described activities were established before or after the effective date of this article, except that massage establishments legally in business prior to the effective date hereof shall have three months to comply with the terms hereof.

**17.28 CAMTC certificate required.**

No person shall perform or administer a massage, or advertise to provide massage services in the City, unless such person has in effect a valid current massage certificate. Each massage technician shall possess either 1) a California driver's license or 2) photo identification badge issued by the City which includes their CAMTC certification number. The massage technician shall carry the license, or wear the identification badge, on his or her person, at all times when working in the massage establishment and shall ensure that a copy of the massage certificate is displayed in a conspicuous place in the lobby during business hours. Each massage technician shall immediately surrender to the Chief of Police any identification badge upon the suspension, revocation, or expiration of such permit or certificate.

**17.29 RESERVED****17.30 RESERVED**

**17.31 Massage Practice—General conditions.**

All massage technicians shall comply with the following conditions:

- (a) Except to the extent required, in writing, by a state-licensed medical practitioner, no massage technician shall massage or allow a massage technician aide, or employee to massage the genitals, or anal area of any patron. Nor shall any massage technician, massage technician aide or employee solicit or allow a patron to touch or massage in any manner the genitals, gluteal fold, or anal area of a massage technician, massage technician aide or employee, or the breasts of any female massage technician, massage technician aide or employee. A massage shall not be given and no patron shall be in the presence of a massage technician, massage technician aide, operator, manager or other employee of a massage establishment unless the patron's genitals, anus, and, if a female patron, the female patron's breasts, are fully covered by a nontransparent covering.
- (b) The massage technician shall wear a photo identification card prepared and issued by the City at all times when present in the massage establishment. Such identification shall be provided to the Chief of Police upon demand. The identification card shall be worn on outer clothing with the photo side facing out. If a massage technician changes his or her business address, he or she shall, prior to such change, obtain from the Chief of Police a new photo identification card and advise the police department, in writing, of the new business address.
- (c) While on duty, the massage technician shall not use any name or designation or conduct business under any other name or designation than the name specified in his or her permit and photo identification card.
- (d) A massage technician shall consent to, and shall not prevent, delay or interfere with an inspection of the massage establishment by the City's planning and building department, fire department, police department and the health department for the purpose of determining that the provisions of this chapter or other applicable laws or regulations are met. The massage technician shall consent to the lawful inspection of the occupied massage rooms by the police department for the purpose of determining that the provisions of this chapter are met.

**17.32 Operator Permit term and renewal.**

- (a) Operator permits shall be valid for a period of one year from the date of issuance, unless sooner revoked or abandoned as set forth in this chapter.
- (b) No permit granted herein shall confer any vested right to any person or business for more than the permit period. All massage operators and technicians subject to this chapter shall comply with the provisions of this chapter as they may be amended hereafter.
- (c) Applications for the renewal of a permit shall be filed with the Chief of Police at least sixty calendar days before the expiration of the permit to be renewed. Temporary permits will not be issued. Any permittee allowing his or her permit to

lapse, or which permit expires during a suspension, shall be required to submit a new application and pay the corresponding original application fees.

- (d) Any person desiring to obtain a renewal of his or her permit shall file a written application under penalty of perjury on the required form with the Chief of Police, who shall conduct an investigation. The application shall be accompanied by a non-refundable filing fee established by separate resolution of the City Council to defray the cost of the investigation required by this chapter. An applicant shall be required to update the information contained in his or her original permit application and provide any new or additional information as may be reasonably required by the Chief of Police in order to determine whether the permit should be renewed.
- (e) The Chief of Police shall have sixty calendar days to investigate the renewal application and shall render a decision within that time, but no later than the date of expiration of the permit.

### **17.33 Suspension, revocation, denial and appeal.**

- (a) Violation and Noncompliance. Failure of a permittee to comply with any requirement imposed by this chapter or any other conditions imposed pursuant to the permit shall be grounds for non-renewal, suspension or revocation of the operator's permit or conditional use permit.
- (b) Suspension, Nonrenewal or Revocation of Operator's Permit. The Chief of Police may suspend, revoke or refuse to renew an operator's permit if any of the following conditions exists:
  - (1) A violation of any of the provisions of this chapter, or if an operator or manager has been convicted of any law specified in section 17.19(a);
  - (2) The Chief of Police makes any of the findings necessary to deny a permit under section 17.19;
  - (3) Employment of any non-certified massage technician for massage services;
  - (4) If there have been repeated alleged violations of the provisions of this chapter which require ongoing supervision or action by law enforcement officers which demonstrate that the operator or manager is unable to operate or manage the massage establishment in a law abiding manner.

### **17.34 Notice.**

When the Chief of Police concludes that grounds for denial, suspension, revocation or refusal to renew a permit exist, the Chief of Police shall serve the applicant or permit holder, either personally or by certified mail addressed to the address listed on the application, with a notice of denial, nonrenewal or notice of intent to suspend or revoke a permit (the "notice"). This notice shall state the reasons for the proposed action, the effective date of the decision, the right of the applicant or permit holder to appeal the

decision to the City Manager and that the Chief of Police's decision will be final if no appeal is sent to the Chief of Police by certified mail within the time stated.

**17.35 Appeal.**

- (a) The right to appeal to the City Manager shall terminate upon the expiration of fifteen calendar days from the date of personal service or the date of acknowledgment on the certified mail of the above notice. The request for appeal shall be personally delivered to or sent by certified mail to the Chief of Police.
- (b) In the event an appeal is timely filed, the suspension or revocation shall not become effective until a final decision has been rendered by the City Manager. If no appeal is filed, the suspension or revocation shall become effective upon the expiration of the period for filing appeals.
- (c) The City Manager shall set a date, time and place for a hearing on appeal and shall notify the appellant of such date, time and place of the hearing. Said notice shall be sent by certified mail with proof of service attached, to the appellant, applicant or permittee at least ten calendar days prior to the date of the hearing, addressed to the address listed on the respective application or, the address given in the notice of appeal. The appellant, applicant or permittee shall be entitled to notice of the basis for the proposed action, a copy of the documents upon which the notice was based and will have the opportunity to present contrary evidence at the hearing.
- (d) The City Manager, in his or her sole discretion, may grant or deny a request for a continuance.
- (e) The City Manager shall preside over the hearing on appeal or, in the alternative, the City Manager may appoint a hearing officer to conduct the hearing and receive relevant evidence. The City Manager or designee shall render a written decision within forty-five calendar days from the date of the hearing. The decision of the City Manager or designee shall be final.
- (f) The following rules of evidence shall apply at the hearing:
  - (1) Oral evidence shall be taken only under oath or affirmation. The City Manager or designee shall have authority to administer oaths, and to receive and rule on admissibility of evidence;
  - (2) Each party shall have the right to call and examine witnesses, to introduce exhibits, and to cross-examine opposing witnesses who have testified under direct examination. The City Manager or designee may also call and examine any witness;
  - (3) Technical rules relating to evidence and witnesses shall not apply to hearings provided for in this chapter. Any relevant evidence may be admitted if it is material and is evidence customarily relied upon by responsible persons in the conduct of their affairs regardless of the existence of any common law or

statutory rule which might make admission of such evidence improper over objection in civil actions. Hearsay testimony may be admissible and used for the purpose of supplementing or explaining any evidence given in direct examination, but shall not be sufficient in itself to support a finding unless such testimony would be admissible over objection in civil actions. The rules of privilege shall be applicable to the extent they are now, or are hereafter permitted in civil actions. Irrelevant, collateral, undue, and repetitious testimony shall be excluded.

**17.36 New application after denial or revocation of permit.**

A person may not apply for a permit pursuant to this chapter within twenty-four months from the denial or revocation of such permit.

**17.37 Surrender of permit.**

Any person to whom a permit has been issued pursuant to this chapter shall immediately surrender his or her permit to the Chief of Police upon its suspension or revocation.

**17.38 Fees.**

The City Council shall establish by resolution, and from time to time may amend, the fees for the administration of this Chapter. Fees required by this Chapter shall be in addition to any other fees that may be required under any other chapter of this Code.

**17.39 Violation and penalty.**

- (a) Any person who violates any provision of this chapter is guilty of a misdemeanor.
- (b) Any massage establishment 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 action hereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in the manner provided by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such massage establishments and restrain and enjoin any person from operating, conducting or maintaining a massage establishment contrary to the provisions of this chapter.
- (c) The penalties set forth herein, including but not limited to the requirement for posting the notice described in section 17.22(q), are cumulative and in addition to all other remedies, violations and penalties set forth in this chapter, or in any other ordinances, laws, rules or regulations of the City of South Pasadena, Los Angeles County and the State of California.

**SECTION 2.** SPMC Article III ("Deemed Approved Massage Establishments"), of Chapter 17 ("Health and Sanitation") is added to read:

**ARTICLE III. DEEMED APPROVED MASSAGE ESTABLISHMENTS****17.40 Purpose and Scope**

- (a) The general purposes of this Article are to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare by requiring that Massage Establishments that would otherwise be considered Legal Nonconforming Activities under Article II (commencing with SPMC Section 17.13 comply with the Deemed Approved performance standards at Article III, Section 17.42 of this Article and to achieve the following objectives:
1. To protect the health, safety, and general welfare of the public by preventing unlawful, unsanitary, and dangerous conditions or practices within the City of South Pasadena;
  2. To protect residential, commercial, industrial and civic areas and minimize the adverse impacts of nonconforming and incompatible uses;
  3. To provide opportunities for Deemed Approved Massage Establishments to operate in mutually beneficial relationship to each other and to other commercial and civic services;
  4. To regulate those businesses that provide massage services to the public in order to provide a standard of safety, lawfulness, and quality commonly expected of the industry;
  5. To provide that Deemed Approved Massage Establishments are not the source of undue public nuisances or visual blight in the community;
  6. To monitor that Deemed Approved Massage Establishments do not substantially change in mode or character of operation; and
  7. To assure that guests and clients of Deemed Approved Massage Establishments are provided safe, clean, and secure premises for service.
- (b) Scope. This Article shall apply, to the extent permissible under other laws, to all Legal Nonconforming Massage Establishments within the city.
- (c) Duplicated Regulation. Whenever any provisions of this Article and any other provision of law, whether set forth in this code, or in any other law, ordinance, or resolution of any kind, imposes overlapping or contradictory regulations, or contains restrictions covering any same subject matter, that provision which is more restrictive or imposes higher standards shall control, except as otherwise expressly provided in this Article.
- (d) Relationship to the Zoning Regulations. The Nonconforming Use provisions of the zoning regulations including, but not limited to, South Pasadena Municipal Code section 36.360.010 et seq., shall apply to this Article.

**17.41 Definitions.**

As used in this Article:

"Condition of Correction" means a requirement which must be carried out by the establishment in order to retain its Deemed Approved Status.

"Deemed Approved Status" means the status conferred upon a Deemed Approved Massage Establishment. Deemed Approved Status replaces legal nonconforming status.

"Illegal activity" means any activity which has been finally determined to be in noncompliance with the Deemed Approved performance standards in Section 17.42. Such an activity shall lose its Deemed Approved Status and shall no longer be considered a Deemed Approved Massage Establishment.

"Legal Nonconforming Massage Establishment" means any Massage Establishment which would otherwise be considered a nonconforming use under Chapter 17, Article II of the South Pasadena Municipal Code. Such an establishment or use shall be considered a Deemed Approved Massage Establishment, and shall no longer be considered a Legal Nonconforming Use, except such activity shall be subject to those zoning regulations relating to nonconforming uses as specified in South Pasadena Municipal Code section 36.360.010 et seq., as of the effective date of this Article.

"Hearing Officer" means the City Manager or his or her designee.

"Performance standards" means regulations prescribed in the Deemed Approved Performance Standards set forth in Section 17.42.

**17.42 Performance Standards and Deemed Approved Massage Establishments**

- (a) "Deemed Approved Massage Establishment" means any Massage Establishment (as defined in section 17.14 of Chapter 17, Article II of the South Pasadena Municipal Code) that is legal nonconforming and in existence immediately following the effective date of any amendment to Chapter 17, Article II of the South Pasadena Municipal Code regulating massage establishments and the practice of massage. Said business shall be considered a Deemed Approved Massage Establishment as long as it complies with the Deemed Approved Massage Establishment performance standards as set forth in Section 17.42 of this Article. Said business shall no longer be considered a Legal Nonconforming Activity or Use.
- (b) A massage establishment shall retain its Deemed Approved Status only if it conforms with the provisions of Chapter 17, Article II, of the SPMC, commencing with Section 17.20 and any other applicable provisions of this Code.

**17.43 Deemed Approved Status Procedure**

- (a) Automatic Deemed Approved Status. All Massage Establishments that would otherwise be considered legal nonconforming uses under this Code and the provisions of Chapter 17, Article II shall automatically become Deemed

Approved Massage Establishments as of the effective date of this Article and shall no longer be considered legal nonconforming uses. Each such Deemed Approved Massage Establishment shall retain its Deemed Approved Status as long as it complies with the Deemed Approved performance standards in Section 17.42.

- (b) Notification of owners of Deemed Approved Massage Establishment. The City shall notify the owner of each Deemed Approved Massage Establishment, and also the property owner if not the same, of the establishment's Deemed Approved Status. Such notice shall be sent via certified return receipt mail; shall include a copy of the performance standards of section 17.42 and Article II of this chapter; notification that the establishment is required to comply with all these same performance standards; and that the establishment is required to comply with all other aspects of this Article. Should the notice be returned, then the notice shall be sent via regular U.S. Mail.

**17.44 Procedure for Consideration of violations to Performance Standards.**

- (a) As a result of an inspection or upon receiving a complaint from the public, Police Department, or any other interested party that a Deemed Approved Massage Establishment is in violation of the performance standards at Section 17.42, and once it is determined by the City that violations appear to be occurring, then the Deemed Approved Status of the Deemed Approved Massage Establishment in question shall be reviewed by the Hearing Officer at a public hearing. Notification of the public hearing shall be in accordance with Subsection (d).
1. At the public hearing the Hearing Officer shall receive testimony and other evidence on whether the operating methods of the Deemed Approved Massage Establishment is in violation of the performance standards at Section 17.42, are causing undue negative impacts in the surrounding area, and whether the property is being maintained in a manner in violation of any provision of this Code.
  2. While the hearing is open, any interested party may present to the Hearing Officer for his or her consideration any relevant testimony or evidence; failure to do so will preclude the party from raising such issues during any appeal hearing and in court.
  3. Within 15 days following the public hearing, the Hearing Officer shall issue a written determination whether the Deemed Approved Massage Establishment conforms to the Deemed Approved Performance Standards set forth in Section 17.42 and to any other applicable criteria, and may:
    - i. continue the Deemed Approved Status for the establishment in question;
    - ii. continue the Deemed Approved Status for the establishment, subject to reasonable Conditions of Correction as are in the judgment of the Hearing Officer necessary to ensure conformity

with said criteria and such conditions shall be based on the evidence before the Officer; or

- iii. revoke the Deemed Approved Status if the officer finds that the violations pose a threat to the health and safety of the public.
4. The decision of the Hearing Officer shall be based upon information compiled by staff and testimony from the business owner and all other interested parties. The determination of the Hearing Officer shall become final fifteen calendar days after the date of the written decision unless appealed to the City Council in accordance with Subsection (c) of this Section. Any party seeking to appeal the determination will be limited to issues or evidence presented to the Hearing Officer prior to the close of the Hearing Officer's public hearing on the matter.
- (b) Procedure for consideration of violations of conditions of corrections. In the event of a failure to comply with any prescribed condition of correction, the Hearing Officer may hold a public hearing. Notification of the public hearing shall be in accordance with Subsection (d). The same procedures shall apply as described under subsection (a) of this section.
  - (c) Appeal to City Council. Within fifteen calendar days after imposition of conditions of approval pursuant to the Hearing Officer's written determination on a Deemed Approved Massage Establishment or the revocation of Deemed Approved Status, an appeal may be taken to the City Council by the Deemed Approved Massage Establishment owner or any other interested party.
    1. In the event the last date of appeal falls on a weekend or a holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal.
    2. Such appeal shall be made on a form prescribed by the City. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Officer or wherein its decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to the Hearing Officer prior to the close of the public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues during the appeal or in court.
    3. Upon receipt of the appeal and the appeal fee in accordance with Subsection (e) a date shall be set for consideration thereof. Not less than seventeen days prior thereto, written notice shall be given to: the owner of the Deemed Approved Massage Establishment; the property owner; the appellant in those cases where the appellant is not the owner; the adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations

who have requested notification; and to similar groups and individuals as appropriate, of the date and place of the hearing on the appeal.

4. During the hearing on the appeal, the appellant will be limited to issues and evidence presented to the Hearing Officer prior to the close of the public hearing on the item and raised in the appeal itself. The appellant shall not be permitted to present any other evidence (written, oral, or otherwise) during the appeal process. In considering the appeal, the City Council shall determine whether the Deemed Approved Massage Establishment conforms to the applicable Deemed Approved performance standards and conditions of correction (if applicable), and may continue or revoke a Deemed Approved Status; or require such changes in the existing use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said performance standards.
  5. The decision of the City Council on the appeal shall be final.
- (d) Notification of public hearing before Hearing Officer. The Hearing Officer shall notify the owner of each Deemed Approved Activity, and also the property owner if not the same, of the time and place of the public hearing.
1. Such notice shall be sent via certified return receipt mail, and shall include notification that the Deemed Approved Status of the Deemed Approved Massage Establishment will be considered by the Hearing Officer.
  2. The public hearing shall also be noticed by posting notice on the premises of the subject property. The notice shall be placed in the window of the establishment (if a window facing the street is not present, then the notice will be required to be posted onto the exterior of the building). All notices shall advertise the time, date, purpose and location of the public hearing for each particular site. All notices shall be given not less than ten days prior to the date set for the hearing.
  3. Notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the City within three hundred feet of the subject property; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings.
  4. Such notices shall be given not less than ten days prior to the date set for the hearing, if such is to be held. Notice by mail is deemed given on the date the notice is placed into the U.S. Mail system. Fees for notification shall be in accordance with Subsection (e) and paid for by the Deemed Approved Massage Establishment in question.
- (e) Fee schedule. Fees, and regulations pertaining to fees, including the appeal, and reinspection of Deemed Approved Massage Establishments shall be in accordance with the City master fee schedule.

- (f) A massage establishment which has had its Deemed Approved Status revoked must immediately cease and desist all massage services and related business operations. No massage establishment which has had its Deemed Approved Status revoked may apply for a new operator's permit pursuant to Section 17.17 through 17.19 for 24 months from the date of revocation.

**17.45 Violations and penalties.**

- (a) **Infractions.** Any person who operates a massage establishment in a manner which violates, causes or permits another person to violate any provision of this Article is guilty of an infraction unless otherwise provided.
- (b) **Separate Offenses for Each Day.** Any violator shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Article is committed, continued, permitted, or caused by such violator and shall be punished accordingly.
- (c) **Any Violation a Public Nuisance.** In addition to the penalties provided in this section, any use or condition caused or permitted to exist in violation of any of the provisions of this Article, shall be and is declared to be a public nuisance and may be subject to administrative remedies pursuant to Chapter 1A of this Code. In addition, a nuisance may be abated as such by the City after appropriate notice and procedures pursuant to Chapter 24 of this Code.
- (d) **Injunction as Additional Remedy.** Any violation of any provision of this Article shall be and is declared to be contrary to the public interest and shall, at the discretion of the City, create a cause of action for injunctive relief.
- (e) **Penalties.** Any person convicted of an infraction under the provisions of this section shall be punishable by a fine to the maximum permitted under state law. Any violation beyond the second conviction within a one-year period may be charged by the City Attorney or District Attorney as a misdemeanor, and the penalty for conviction shall be punishable by a fine or imprisonment to the maximum permitted under State law.
- (f) **Liability for Expenses.** In addition to the punishment provided by law, a violator is liable for such costs, expenses, and disbursements paid or incurred by the City or any of its contractors in correction, and abatement of the violation. Reinspection fees to ascertain compliance with previously noticed or cited violations may be charged against the owner of the Deemed Approved Massage Establishment, if adopted in the City's fee schedule resolution. The inspection official shall give the owner or other responsible party of such affected premises a written notice showing the itemized cost of such chargeable service and requesting payment thereof. Should the bill not be paid in the required time, the charges shall be placed as a lien against the property.

**17.46 Enforcement.**

The City Manger shall designate the appropriate personnel to enforce the provisions of this Article.

**SECTION 3.** SPMC Section 36.700.020 ("Definitions of Specialized Terms and Phrases") of Article VII ("Definitions") of Chapter 36 ("Zoning"), is amended by deleting "massage" from the definition of "Personal Services" to read:

**Personal Services.** Establishments providing non-medical services to individuals as a primary use. Examples of these uses include: barber and beauty shops; clothing rental; dry cleaning pick-up stores with limited equipment; home electronics and small appliance repair; laundromats (self-service laundries); pet grooming with no boarding; shoe repair shops; tailors; tanning salons.

These uses may also include accessory retail sales of products related to the services provided.

**SECTION 4.** SPMC Section 36.700.020 ("Definitions of Specialized Terms and Phrases") of Article VII ("Definitions") of Chapter 36 ("Zoning"), is amended by adding a new definition of "Massage Establishment" to read as follows:

"Massage Establishment." A licensed, therapeutic and non-sexual establishment having a fixed place of business conducted within the City of South Pasadena, where any person, firm, association, partnership, corporation, or combination of individuals, engages in, conducts, carries on or permits to be conducted or carried on, for money or any other consideration, the administration to another person of a massage, consistent with the requirements and standards set forth in Article II, Chapter 17.

**SECTION 5.** SPMC Municipal Section 36.230.030 ("Commercial District Land Uses and Permit Requirements"), Table 2-4 is amended to read:

TABLE 2-4. ALLOWED USES AND PERMIT REQUIREMENTS FOR COMMERCIAL & BUSINESS PARK DISTRICTS	P	Permitted Use			
	CUP	Conditional Use Permit required			
	AUP	Administrative Use Permit required			
	—	Use not allowed			
	PERMIT REQUIREMENT BY ZONE			Specific Use Regulations	
LAND USE (1)	CO	CG	BP		
<b>MANUFACTURING &amp; PROCESSING USES</b>					
Electronics, equipment, and appliance manufacturing	—	—	P		
Food and beverage products manufacturing	—	—	P		
Furniture/fixtures manufacturing, cabinet shops	—	—	P		
Handcraft industries, small-scale manufacturing, less than 3,500 sf	—	—	P		
Handcraft industries, small-scale manufacturing, 3,500 sf or more	—	—	CUP		
Laundries and dry cleaning plants, less than 3,500 sf	—	—	P		
Laundries and dry cleaning plants, 3,500 sf or more	—	—	CUP		
Media post production facilities	—	—	P		
Metal products fabrication, machine/welding shops	—	—	P		
Photographic processing plants, less than 3,500 sf	—	—	P		
Photographic processing plants, 3,500 sf or more	—	—	CUP		
Plumbing and heating shops, less than 3,500 sf	—	—	P		
Plumbing and heating shops, 3,500 sf or more	—	—	CUP		
Printing and publishing, less than 3,500 sf	—	P	P		
Printing and publishing, 3,500 sf or more	—	P	CUP		
Recycling facilities	—	CUP	CUP	36.350.160	
Recycling facilities—Reverse vending machines	—	P	P	36.350.160	
Warehouses, wholesaling and distribution	—	—	P		
<b>RECREATION, EDUCATION &amp; PUBLIC ASSEMBLY USES</b>					
Adult entertainment businesses	—	—	(2)	36.350.030	
Clubs, lodges, fraternal organizations	—	CUP	CUP		
Health and fitness facilities	—	CUP	CUP		
Indoor amusement/entertainment facilities	—	P	CUP		
Libraries, museums, galleries	—	AUP	CUP		
Outdoor recreation facilities	—	CUP	CUP		
Schools—Private	—	CUP	CUP		
Schools—Specialized education and training	—	CUP	CUP		
Special needs educational and training facilities	—	CUP	CUP		
Studios—Dance, martial arts, music, photography, etc.	—	CUP	CUP		
Theaters and auditoriums	—	CUP	—		
Community gardens	CUP	CUP	CUP	36.350.230	

<b>TABLE 2-4. (Continued)</b> <b>ALLOWED USES AND PERMIT REQUIREMENTS</b> <b>FOR COMMERCIAL &amp; BUSINESS PARK DISTRICTS</b>	P	Permitted Use		
	CUP	Conditional Use Permit required		
	AUP	Administrative Use Permit required		
	—	Use not allowed		
	<b>PERMIT REQUIREMENT BY ZONE</b>			<b>Specific Use Regulations</b>
<b>LAND USE (1)</b>	<b>CO</b>	<b>CG</b>	<b>BP</b>	
<b>RESIDENTIAL USES</b>				
Emergency shelter	—	—	P	36.350.250
Live/work units	—	—	—	36.350.110
Mixed-use projects	CUP	CUP	—	36.350.120
Single room occupancy	—	—	P	36.350.260
<b>RETAIL TRADE</b>				
Alcoholic beverage sales	—	CUP	—	36.350.040
Auto parts sales	—	P	—	
Auto sales and rental	—	CUP	CUP	
Building material stores	—	P	CUP	36.350.220
Coffee roasting and packaging, retail	—	CUP	—	
Construction/heavy equipment sales and rental	—	CUP	CUP	
Convenience & liquor stores	—	CUP	—	36.350.040
Department stores	—	P	—	
Equipment sales and rental	—	CUP	CUP	
Extended hour businesses (11:00 p.m. to 6:00 a.m.)	—	CUP	CUP	
Furniture, furnishings and appliance stores	—	P	—	
Gas stations	—	CUP	CUP	
General retail	—	P	CUP	36.350.140, 36.350.220
Grocery stores	—	AUP	—	
Hardware stores	—	P	—	
Multitenant retail	—	CUP	—	
Outdoor display and retail activities	—	CUP	CUP	
Plant nurseries and garden supply stores	—	P	—	36.350.140, 36.350.220
Restaurants	CUP	P	P	
Restaurants, multitenant retail		CUP(3)		
Restaurants, take-out and with accessory retail food	CUP	P	P	
Restaurants, with catering	CUP	CUP	CUP	
Restaurants, with catering and accessory retail food	CUP	CUP	CUP	
Restaurants, with outdoor dining	CUP	AUP	CUP	36.350.130
Second hand stores	—	P	—	

<b>TABLE 2-4. (Continued)</b> <b>ALLOWED USES AND PERMIT REQUIREMENTS</b> <b>FOR COMMERCIAL &amp; BUSINESS PARK DISTRICTS</b>	P	Permitted Use		
	CUP	Conditional Use Permit required		
	AUP	Administrative Use Permit required		
	—	Use not allowed		
	<b>PERMIT REQUIREMENT</b> <b>BY ZONE</b>			<b>Specific</b> <b>Use</b> <b>Regulations</b>
<b>LAND USE (1)</b>	<b>CO</b>	<b>CG</b>	<b>BP</b>	
<b>RETAIL TRADE (cont'd)</b>				
Tobacco retailer—Primary use	—	P	CUP	SPMC Chapter 18, Part 6 or its successor
Tobacco retailer—Accessory use	—	As required for the primary use that the accessory use is associated with	As required for the primary use that the accessory use is associated with	
Warehouse retail	—	CUP	—	36.350.220
<b>SERVICES—BUSINESS &amp; PROFESSIONAL</b>				
Automated teller machines (ATMs)	P	P	P	36.350.060
Banks and financial services	—	P	P	
Business support services	—	CUP	P(5)	
Offices—Production, research and development	P	P	P	
Offices—Professional and administrative	P	P	P	
<b>SERVICES—OTHER</b>				
Ambulance service	—	CUP	CUP	
Bed and breakfast inns	CUP	CUP	—	
Child/adult day care centers	—	CUP	CUP	
Contractor storage yard	—	—	CUP	
Convenience services	P	P	P	
Hotels and motels	—	CUP	—	
Medical services—Clinics	—	CUP	—	
Medical services—Laboratories	—	CUP	P	
Medical services—Offices	P	P	P	
Massage Establishment	--	CUP	--	SPMC 17.15(b)
Personal services	CUP(4)	P	—	SPMC 17.13

<b>TABLE 2-4. ALLOWED USES AND PERMIT REQUIREMENTS FOR COMMERCIAL &amp; BUSINESS PARK DISTRICTS</b>	P	Permitted Use		
	CUP	Conditional Use Permit required		
	AUP	Administrative Use Permit required		
	—	Use not allowed		
	<b>PERMIT REQUIREMENT BY ZONE</b>			<b>Specific Use Regulations</b>
<b>LAND USE (1)</b>	<b>CO</b>	<b>CG</b>	<b>BP</b>	
<b>SERVICES—OTHER (cont'd)</b>				
Personal services—Restricted	—	AUP	—	
Vehicle repair and maintenance—Major repair work	—	CUP	—	
Vehicle repair and maintenance—Service and maintenance	—	CUP	—	
Veterinary clinics, hospitals, kennels	—	CUP	CUP	
Wine cellar	—	P	P	
<b>TRANSPORTATION &amp; COMMUNICATIONS</b>				
Parking facilities/vehicle storage	—	CUP	—	
Broadcasting studios	—	CUP	P	
Telecommunications facilities	CUP	CUP	CUP	36.350.210
<b>Notes:</b>				
(1) See Article 7 for land use definitions.				
(2) Requires an Adult Business Permit in compliance with Section 36.350.030.				
(3) If multitenant retail complies with the parking regulations in Section 36.310.040, a CUP is required if a new restaurant would cause the restaurant square footage in the multitenant retail to exceed twenty percent of the total square footage. If the multitenant retail is legal nonconforming with the parking regulations in Section 36.310.040, a CUP is required if a restaurant use in an existing space has been abandoned for a period of eighteen months or longer, and for all additional restaurants in new spaces or spaces previously occupied by a non-restaurant.				
(4) Personal services are not permitted on parcels located within the Fremont Corridor as defined in the Land Use and Community Design Element of the South Pasadena General Plan. The Fremont Corridor includes a mixture of residential and small-scale professional office uses lining the busy and heavily traveled section of Fremont Avenue from Monterey Road north to the Pasadena Freeway, properties fronting Mound Avenue between Hope Street and the Pasadena Freeway.				
(5) Business support services consisting of laboratory uses require a CUP.				

**SECTION 6.** Urgency Ordinance No. 2267 "Extending Moratorium on the Establishment or Expansion of Massage Establishments" is repealed.

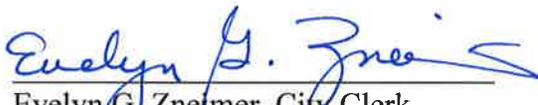
**SECTION 7.** This ordinance shall take effect thirty (30) days after its final passage and within fifteen (15) days after its passage, the City Clerk of the City of South Pasadena shall certify to the passage and adoption of this ordinance and to its approval by the Mayor and City Council and shall cause the same to be published in a newspaper in the manner required by law.

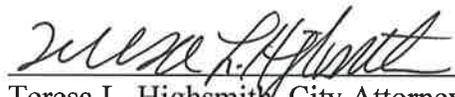
**PASSED, APPROVED, AND ADOPTED** this 3<sup>rd</sup> day of February, 2016.

  
\_\_\_\_\_  
Diana Mahmud, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Evelyn G. Zneimer, City Clerk  
(seal)

  
\_\_\_\_\_  
Teresa L. Highsmith, City Attorney

Date: 02/03/2016

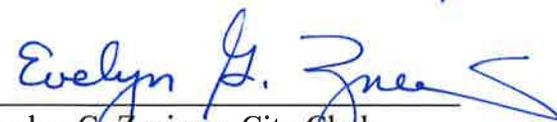
**I HEREBY CERTIFY** the foregoing ordinance was duly adopted by the City Council of the City of South Pasadena, California, at a regular meeting held on the 3<sup>rd</sup> day of February, 2016, by the following vote:

**AYES:** Cacciotti, Joe, Khubesrian, Schneider, and Mayor Mahmud

**NOES:** None

**ABSENT:** None

**ABSTAINED:** None

  
\_\_\_\_\_  
Evelyn G. Zneimer, City Clerk  
(seal).