

**Chapter 9.10 - MASSAGE ESTABLISHMENTS**

## 9.10.010 - 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 are sometimes brothels in disguise. The establishment of reasonable standards for issuance of permits and restrictions on operations would serve to reduce the risk of illegal activity.
- D. The restrictions and requirements outlined 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.

( Ord. No. 769, § 1, 3-22-2016 )

## 9.10.020 - 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 Grass Valley, or designee.

"City" means the City of Grass Valley.

"City council" means the city council of the City of Grass Valley.

"City manager" means the city manager of the City of Grass Valley, 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 to 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 his chapter the term "employee" shall include independent contractors.

"Health department" Nevada County public health department.

"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 include, 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 9.10.050 and 9.10.060 to qualify as a manager.

"Massage" means any method of manipulating the soft tissues of the human body for remedial, health, hygiene, 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 Grass Valley 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 9.10.050 and 9.10.160 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 Grass Valley.

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

( Ord. No. 769, § 1, 3-22-2016 )

#### 9.10.030 - 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 Title 5 of this Code.
- B. **All persons or businesses providing massage to the public for any form of compensation shall apply for and obtain a business license pursuant to Title 5 of this Code.**

( Ord. No. 769, § 1, 3-22-2016 )

#### 9.10.040 - 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 Grass Valley 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 exception applies solely for the massaging aging 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.

( Ord. No. 769, § 1, 3-22-2016 )

9.10.050 - 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 chief of police using a form specifically adopted by the chief of police 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:
  1. The type of ownership of the business (individual, partnership, corporation or otherwise):
    - i. 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,
    - ii. If the applicant is a partnership, the application shall set forth the name and residence addresses of each of the partners, including limited partners,
    - iii. 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. Written proof of compliance with the general liability insurance required by section 9.10.070(F), including a certificate of insurance or other document issued by an insurance company authorized to do business in the State of California.
  7. 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;
  8. 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;
9. The complete business, occupation and employment history for five years preceding the date of application, including, but not limited to, a massage establishment or similar type of business history and experience of the applicant;
  10. The complete massage permit history; 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;
  11. All criminal convictions, 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, for 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;
  12. Authorization for the city, its agents and employees to seek verification of the information contained in the application;
  13. 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;
  14. 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;
  15. 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 community development department, building division, and the Nevada County public health 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 chief of police 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.
- 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.

( Ord. No. 769, § 1, 3-22-2016 ; Ord. No. 774, § 1, 4-12-2016 )

- 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 to thirty additional calendar days, if necessary to complete the investigation. The chief of police at that time may issue a permit as requested, unless he or she makes any of the following findings:
1. The applicant or any of the officers or director 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:
    - i. 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, 653.22, 653.23, subsections (a), (b), (d) or (h) of California Penal Code section 647, subsection (a) of California Penal Code section 288, 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,
    - ii. 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,
    - iii. Been convicted of any offense in any other state, which is the equivalent of any of the above-mentioned offenses,
    - iv. 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,
    - v. 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,
    - vi. Has had a operators permit 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,
    - vii. Has engaged in conduct, which would constitute grounds for suspension or revocation under Section 9.10.240 of this chapter;
  2. The owner or operator has made a false, misleading or fraudulent statement or omission of fact to the city in the permit application process;
  3. The application does not contain all of the information required by Section 9.10.050;
  4. The owner or operator is not at least eighteen years of age;
  5. 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;
  6. 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)(1) or (a)(2) of this section, the applicant may not reapply for a period of twenty-four months from the date the application 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 9.10.200 of this chapter.

( Ord. No. 769, § 1, 3-22-2016 )

#### 9.10.070 - 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 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 chief of police 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. The operator shall maintain in full force and effect at all times general liability insurance, issued by an insurance company authorized to do business in the State of California, in an amount not less than one million dollars per occurrence for injury or death to one person arising out of the operation of the massage establishment and the administration of a massage.
- G. 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. 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.
- H. 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 9.10.160(B) at all times when working in the massage establishment. Such identification shall be provided to a city official upon demand.
- I. 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.
- J. No operator or manager shall employ any person as a massage technician who does not have a valid massage certificate issued pursuant to this chapter or 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.
- K. 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 the California Massage Therapy Council. 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.
- L. It is unlawful for owners or employees of massage establishments or off-premises massage services, or massage technicians, to conduct or allow any of the following activities:
- a. It is unlawful for any massage practitioner or technician or any other employee working in a massage establishment or for an off-premises 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 off-premises massage location.
  - b. 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.
  - c. 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.
- M. 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:
- a. The name, nicknames or aliases used by an employee;
  - b. The employee's home address and relevant phone numbers (including, but not limited to, home, cellular and pager numbers);
  - c. The employee's age, date of birth, gender, height, weight, color of hair and eyes, or a photocopy of the employee's California driver's license or California identification card;
  - d. The employee's Social Security number;
  - e. The date of employment and termination, if any;
  - f. The massage technician's CAMTC certification information;
  - g. The duties of each employee.
- N. No massage establishment shall operate as a school of massage, or use the same facilities as that of a school of massage.
- O. At all times, the operator, manager and employees shall comply with all provisions of this chapter and any applicable provisions of this code.

( Ord. No. 769, § 1, 3-22-2016 ; Ord. No. 774, § 1, 4-12-2016 )

#### 9.10.080 - 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 p  
When a massage establishment is newly constructed, three sets of plans shall be submitted to the city and the cc  
agency for approval and shall he 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. If food service is proposed,  
the applicant will be required to obtain a separate conditional use permit.
- D. Lighting. Minimum lighting for a massage establishment shall be provided in accordance with Article 220 of  
the National Electric Code or successor provision or provisions. The lighting in each massage room shall be at  
least one light bulb that shall be activated at all times while the patron is in a massage room. No strobe or  
flashing lights shall be used.
- E. Ventilation. The operator or manager shall provide in each massage room, minimum ventilation in accordance  
with section 1203.4 of the 2013 California Building Code (CCR Title 24, Part 2, Volume I of 2) or successor  
provision or provisions.
- F. Toilet Facilities. A minimum of one toilet and one separate wash basin shall he provided for patrons in each  
massage establishment, which basin shall provide or detergent and hot and cold running water at all times  
and shall be located within close proximity to the massage rooms. A soap dispenser shall be 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 permitted in each toilet room.
- G. 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. Nothing in this section shall  
prohibit a male and female from receiving massage in the same room upon consent of the patrons.
- H. Maintenance. Wet and dry heat rooms, stream 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. 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.
- I. Massage Tables. A massage table shall be provided in each massage room and all massages shall be  
performed on the massage table. The massage table must be covered with durable, washable plastic or other  
waterproof material acceptable to the county health department. Beds, f1oor, mattresses and waterbeds shall  
not be permitted on the premises.
- J. 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.

( Ord. No. 769, § 1, 3-22-2016 )

All owners, operators, and managers, including those who 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. No cooking or food preparation of any kind shall be prepared for sale or sold in the establishment unless an appropriate food vending permit is granted by the city and the county of Nevada and a full service kitchen is installed. Such a kitchen, if any, shall be for the sole use of employees and shall be installed in an "employees only" area. The full service kitchen shall have a minimum of a sink with hot and cold running water, a refrigerator, a stove, and sufficient cabinets to store cooking utensils. This subsection shall not apply to a sole proprietor opening in his or her home with a valid home occupation permit.
- D. **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.
- E. **Adult Oriented Merchandise Prohibited.** The use or possession of adult oriented merchandise in or on any part of a massage establishment is prohibited.
- F. **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.
- G. **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.
- H. **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.
- I. **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 seven 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 between the hours of seven p.m. and seven a.m. A massage begun any time before seven p.m. must nevertheless terminate at seven p.m. All customers, patrons and visitor 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..

- J. 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.
- K. Handicapped Areas. All massage establishments must comply with all state and federal laws and regulations for handicapped customers.
- L. 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.
- M. 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, 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.
- N. 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.
- O. Access. No person(s) other than the owner, operator, operator's employees, holders of valid massage certificates and customers, including guardians and caretakers of 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.
- P. Discrimination. No massage establishment may discriminate or exclude patrons on the basis of race, sex, religion, age or handicap.

( Ord. No. 769, § 1, 3-22-2016 )

#### 9.10.100 - Inspections.

- A. The police chief and the Nevada County public 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 scheduled 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 community development 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 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.

( Ord. No. 769, § 1, 3-22-2016 )

#### 9.10.110 - 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 deemed to constitute a voluntary surrender of such permit and such permit shall thereafter be null and void except as hereinafter set forth.

( Ord. No. 769, § 1, 3-22-2016 )

#### 9.10.120 - Operator's permit—Change in ownership of business.

- A. 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. 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.
- 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.

( Ord. No. 769, § 1, 3-22-2016 )

#### 9.10.130 - 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.

( Ord. No. 769, § 1, 3-22-2016 )

9.10.140 - Applicability to existing massage establishments.

- A. Commencing on the elective 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 chapter, except that massage establishments legally in business prior to the effective date hereof shall have three months or until the expiration of their current business license whichever is greater to comply with the terms hereof.

( Ord. No. 769, § 1, 3-22-2016 )

**9.10.150 - 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: (1) a California driver's license or California identification card, and (2) a CAMTC identification card issued by the California Massage Therapy Council. The massage technician shall possess the California driver's license or California identification card, and shall visibly wear a CAMTC identification Card issued by the California Massage Therapy Council, 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.

( Ord. No. 769, § 1, 3-22-2016 )

**9.10.160 - 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 visibly wear a CAMTC identification card issued by the California Massage Therapy Council all times while 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.
- 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 massage certificate 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.

( Ord. No. 769, § 1, 3-22-2016 )

#### 9.10.170 - 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. Application 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.

( Ord. No. 769, § 1, 3-22-2016 )

#### 9.10.180 - Suspension, revocation, denial and appeal.

- A. Violation and Noncompliance. Failure of a permittee to comply with any requirement imposed by this chapter or any of the conditions imposed pursuant to the permit shall be grounds for non-renewal, suspension or revocation of the permit.
- B. Suspension, Non-renewal, 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 exist:
  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 910.060(A);
  2. The chief of police makes any of the findings necessary to deny a permit under Section 9.10.060;
  3. Employment of any massage technician without a massage certificate 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.

( Ord. No. 769, § 1, 3-22-2016 )

#### 9.10.190 - 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"). The 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 or designee 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.

( Ord. No. 769, § 1, 3-22-2016 )

#### 9.10.200 - Appeal.

- A. The right to appeal to the city manager or designee 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 or designee. 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 or designee shall set a date, time and place for a hearing on appeal and shall notify the applicant 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 or designee, in his or her sole discretion, may grant or deny a request for a continuance.
- E. The city manager or designee 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 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.

( Ord. No. 769, § 1, 3-22-2016 )

#### 9.10.210 - New application after denial or revocation of permit.

A person may not apply for a permit pursuant to this chapter within one year from the denial or revocation of such 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.

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.

( Ord. No. 769, § 1, 3-22-2016.)

#### 9.10.220 - 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.

( Ord. No. 769, § 1, 3-22-2016.)

#### 9.10.230 - 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.

( Ord. No. 769, § 1, 3-22-2016.)

#### 9.10.240 - 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 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 Grass Valley, Nevada County and the State of California, including, without limitation, administrative enforcement pursuant to Chapter 1.14 of this Code.

( Ord. No. 769, § 1, 3-22-2016.)