

ORDINANCE NO. _____

An ordinance amending Sections 103.205 and 103.205.1 of Division 8, Article 3 of Chapter X of the Los Angeles Municipal Code regulating the issuance of police permits to Massage Businesses and Therapists.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Section 103.205 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 103.205. MASSAGE THERAPY.

The City recognizes that the practice of massage therapy without sufficient training and standards can be dangerous to the public. State law has been created to provide for consistent statewide certification and oversight of massage therapy professionals, and to ensure that schools approved by the California Massage Therapy Council are providing the appropriate level of instruction. The purpose and intent of this section is to regulate massage businesses in order to protect and promote the public health, safety and welfare.

(a) **Definitions.** Unless the context or subject matter clearly indicates that a different meaning is intended, the following words and phrases shall have the following meanings when used in this section.

1. **“Board”** means the Board of Police Commissioners.
2. **“California Massage Therapy Council”** or **“CAMTC”** means the State nonprofit organization created to regulate and issue massage practitioner and therapist certificates pursuant to Business and Professions Code section 4600 *et seq.*
3. **“Massage”** means any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, or stimulating the external parts of the body with the hands or other parts of the body, or any other type of system for treating or manipulating the human body with or without the aid of any mechanical or electrical apparatus or appliances, or with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.
4. **“Massage Establishment”** means any business or establishment having a fixed place of business where any person engages in, conducts, carries on, or permits to be engaged in, conducted, or carried on, any massage as defined in this section, for any form of consideration or gratuity.

5. **“Out-Call Massage Business”** means any business or enterprise that engages in or performs massage for any form of consideration or gratuity at a location other than a Massage Establishment.

6. **“Operator”** means any person who supervises, manages, directs, organizes, controls or in any other way is responsible for or in charge of the overall operation, conduct or activities of a Massage Establishment or Out-Call Massage Business.

7. **“Owner”** means any of the following:

(i) The sole proprietor of a Massage Establishment or Out-Call Massage Business. As used in this section, the term **“sole proprietor”** means a Massage Establishment or Out-Call Massage Business where the owner owns 100% of the business and is the only person who provides massage services for that Establishment or Out-Call Massage Business pursuant to a valid and active State certificate issued by the California Massage Therapy Council; or

(ii) All general partners of a partnership that owns and operates a Massage Establishment or Out-Call Massage Business; or

(iii) All officers of a corporation and all persons who own a controlling interest in a corporation or other limited liability entity that owns and operates a Massage Establishment or Out-Call Massage Business.

8. **“Massage Therapist”** means a person who is certified as a “Massage Therapist” by the California Massage Therapy Council under Chapter 10.5 of the California Business and Professions Code.

9. **“Massage Practitioner”** means a person who is certified as a “Massage Practitioner” by the California Massage Therapy Council under Chapter 10.5 of the California Business and Professions Code.

10. **“Permit”** means the permit required to be obtained from the Board for the operation of a Massage Establishment or Out-Call Massage Business.

(b) **Massage Establishment or Out-Call Massage Business - Permit Required.** No person shall engage in, promote, advertise, conduct, or carry on, in or upon any premises within the City of Los Angeles, the operation of a Massage Establishment or Out-Call Massage Business without a permit duly issued by the Board pursuant to this subsection for each business location. This required permit shall be in addition to any business tax registration certificate required by ordinance.

1. **Application for Permit.** Permit applications shall be made in accordance with Chapter X, Article 3, Division 3 of this Code.

2. **Additional Requirements.** In addition to those requirements specified in Chapter X, Article 3, Division 3 of this Code, each applicant for a Massage Establishment or Out-Call Massage Business permit shall furnish the following information to the Board:

- (i) Each residence and business address of the applicant for the five years immediately preceding the date of the application, and the dates residing at each address.
- (ii) Written proof that the applicant is at least 18 years of age.
- (iii) Applicant's height, weight, eye color and hair color.
- (iv) Three photographs of applicant, of a size specified by the Board, taken within the six months immediately preceding the date of application.
- (v) Applicant's business, occupation and employment history for the five years immediately preceding the date of application.
- (vi) The permit history of the applicant and whether the person has ever had a license or permit issued by any agency or board, City, County or State revoked or suspended, or has had any professional or vocational license or permit revoked or suspended, and the reason for the revocation or suspension.
- (vii) Any other identification and information as may be required by the Board.
- (viii) 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 names and residence addresses of each of its current officers and directors, and each stockholder holding more than 5% of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and residence addresses of each of the partners, including limited partnership, and it shall furnish a copy of its certificate of limited partnership as filed with the County Clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporation applicants shall apply. The applicant corporation or partnership shall designate a responsible managing officer. This person shall complete and sign all application forms required for an individual applicant under this ordinance, but only one application fee shall be charged. A new application shall be filed to change the responsible managing officer but no additional inspection shall be necessary. The corporation's or partnership's

responsible managing officer must at all times meet all of the requirements set for permittees by this section, or the corporation or partnership permit shall be suspended until a responsible managing officer who does meet all these requirements is designated. If no person is named within 90 days, the corporation or partnership permit is deemed cancelled and a new initial application for permit must be filed.

(ix) The name and address of the Owner or lessor of the real property upon or in which the business is to be conducted, and a copy of the deed, lease or rental agreements.

(x) All convictions for any crime involving conduct which requires registration under California Penal Code Section 290, or of conduct which is a violation of California Penal Code Sections 266i, 314, 315, 316, 318, 647(a), 647(b), or any crime involving dishonesty, fraud, deceit or moral turpitude.

(xi) A complete list of the names and residence addresses of all of the proposed Massage Practitioners, Massage Therapists and employees working for the Massage Establishment or Out-Call Massage Business, and the name of the manager or managing employee proposed to be principally in charge of the operation of the business.

(xii) A statement in writing by the applicant signed under penalty of perjury that all information contained in the application is true and correct.

(c) **Public Hearings.**

1. If public protest or adverse information concerning the applicant is received, the Board or, upon its direction, a Hearing Examiner may hold a public hearing to gather input from the public before issuance of a permit for the operation of a Massage Establishment or Out-Call Massage Business. All relevant information so obtained shall be used by the Board in determining whether or not to issue a permit for a Massage Establishment or Out-Call Massage Business. Public hearings shall be held in accordance with Chapter X, Article 3, Division 3 of this Code.

2. **Record.** The hearing procedure shall be recorded or summarized as directed by the Board. When proceedings are recorded and not summarized, they shall be transcribed at the request of any party or interested person upon the prepayment of a fee as set forth in Section 102.18. One copy of such transcript shall be furnished to the Board to be placed in its files.

3. **Hearings.** The public hearing shall be conducted by the Board or a Hearing Examiner at the Board's direction. After the conclusion of a public

hearing conducted by a Hearing Examiner, the Hearing Examiner shall submit his or her report to the Board setting forth his or her conclusions and recommendations in writing and stating briefly the reasons therefore.

(d) **Massage Establishment - Operating Requirements.**

1. **Hours and Conditions of Operation.** No Massage Establishment shall operate, nor shall any massage be administered in any Massage Establishment, between the hours of 10:00 p.m. and 7:00 a.m. The hours of operation must be displayed in a conspicuous place in the lobby within the Massage Establishment and in any front window clearly visible from outside of the Massage Establishment.

(i) Each person employed or acting as Massage Practitioner or Massage Therapist shall have a valid certificate issued by the California Massage Therapy Council. It shall be unlawful for any owner, operator, responsible managing employee, manager or permittee in charge of, or in control of, a Massage Establishment to employ or permit a person to perform massage, as defined in this section, who is not in possession of a valid, unrevoked Massage Practitioner or Massage Therapist certificate issued by the California Massage Therapy Council. After December 31, 2015, all Massage Therapist permits previously issued by the Board shall be null and void, and in order to provide massage services in the City, a person must possess a valid, unrevoked California Massage Therapy Council Massage Practitioner or Massage Therapist certificate.

(ii) The possession of a valid Massage Establishment permit does not authorize the possessor to perform work for which state certification as a Massage Practitioner or Massage Therapist is required.

(iii) The Massage Establishment shall be supervised during all hours of operation by an operator specified in the permit application.

2. **Posting Requirements.**

(i) A recognizable and legible sign complying with the requirements of this Code shall be posted at the main entrance identifying the business as a Massage Establishment.

(ii) A list of services available and the cost of such services shall be posted in an open and conspicuous place on the premises. The services shall be described in readily understandable language. No services shall be performed and no sums shall be charged for such services other than those posted. Nothing herein prohibits a voluntary tip from being paid by the patron.

(iii) The Massage Establishment permit and a copy of the certificate and photo of each and every California Massage Therapy Council certified Massage Practitioner or Massage Therapist employed in the establishment shall be displayed in an open and conspicuous place on the premises.

3. **Instruments, Equipment and Personnel.**

(i) Disinfecting agents and sterilizing equipment shall be provided for any instruments used in performing any massage.

(ii) Pads used on massage tables shall be covered in a professional manner with durable, washable plastic or other waterproof material.

(iii) Clean and sanitary towels, sheets and linens shall be provided for each patron receiving massage services. No common use of towels or linens shall be permitted. Towels, sheets and linens shall be provided in sufficient quantity and shall not be used by more than one person unless they have been first relaundered. Heavy white paper may be substituted for sheets, provided that such paper is used once for each person and then discarded into a sanitary receptacle. Separate closed cabinets or containers shall be provided for the storage of clean and soiled linen and shall be plainly marked: "**clean linen**" and "**soiled linen.**"

(iv) All employees, including certified Massage Practitioners and Massage Therapists, shall not wear clothing that is transparent, see-through or exposes the certificate holder's undergarments.

4. **Personnel Lists.**

(i) The operator shall maintain on the premises of the Massage Establishment evidence that demonstrates that all persons providing massage services are certified by the California Massage Therapy Council. The operator shall make the state certificates immediately available for inspection upon demand of a representative of the Police Department or any other representative charged with enforcement of this section. Additionally, the operator shall be required to file copies of each state certificate with the Board within ten days of a Massage Practitioner or Massage Therapist beginning work at the Massage Establishment. Information required by this section shall be maintained at the Massage Establishment for a minimum of two years following the date that the person ceases to be employed or provide services at the Massage Establishment.

(ii) The operator shall have a continuing obligation to notify the Board in writing of any changes in Massage Practitioners, Massage Therapists and managers within ten days of such change.

(iii) The operator shall maintain on the premises of the Massage Establishment a register of all non-state certified persons employed, working or providing other services at the massage business. The register shall be maintained for a minimum of two years following the time that a person ceases to be employed or provide services at the Massage Establishment. The operator shall make the register immediately available for inspection upon demand of a representative of the Police Department, any health officer or any other official charged with enforcement of this section. The register shall include, but is not limited to, the following information:

- (a) Name, nicknames and/or aliases;
- (b) Home address and contact phone number;
- (c) Age, date of birth, gender, height, weight, eye color and hair color;
- (d) The date of employment, and termination, if any;
- (e) The duties of each person.

(iv) Every permittee operating a Massage Establishment under a permit issued pursuant to this section shall keep a record of the date and hour of each treatment, the name and address of the patron, the name of the employee administering such treatment and the type of treatment administered. Such record shall be maintained on a professionally printed form provided by the permittee. The information furnished or secured as a result of any such record shall be confidential. Any unauthorized disclosure or use of such information shall constitute a misdemeanor. Such records shall be maintained for a period of one year.

5. **Prohibited Conduct.**

(i) No person shall enter or remain in any part of a Massage Establishment location while in the possession of, consuming or using any alcoholic beverages or drugs, except pursuant to a prescription for such drugs. The owner, operator, responsible managing employee, manager or permittee shall not permit any such person to enter or remain upon such premises.

(ii) No storage or sale of sexually oriented material and/or sexually oriented merchandise, as defined by LAMC 103.01, shall be permitted within the Massage Establishment.

(iii) No operator shall hire, employ or allow a person to perform massage services unless such person possesses a valid state certificate. Each operator shall verify that all persons performing massage services hold the appropriate state certificate required by this section.

(iv) No audio or video recording or monitoring of the performance of massage services without the prior knowledge and written consent of the patron.

(v) 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 patrons that any service is available other than those services described in this section and posted on the premises as required by this section, 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 section and posted on the premises as required by this section.

(vi) No Massage Practitioner, Massage Therapist or employee shall expose his or her genitals, buttocks or, in the case of a female, her breast or make intentional contact with the genitals or anus of another person.

(vii) The Massage Establishment shall not refuse service on the basis of a customer's sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation or other arbitrary factor proscribed by the Unruh Civil Rights Act, Civil Code Section 51, et seq.

6. Building and Facility Requirements.

(i) Adequate bathing, dressing, locker and toilet facilities shall be provided for patrons. A minimum of one tub or shower, one dressing room containing a separate locker for each patron to be served, which locker shall be capable of being locked, as well as a minimum of one toilet and one wash basin, shall be provided in every Massage Establishment; however, if male and female patrons are to be served simultaneously at the establishment, separate bathing facilities, a separate massage room or rooms, and separate dressing and separate toilet facilities shall be provided for male and female patrons.

(i) Minimum ventilation shall be provided in accordance with the Building Code of the City of Los Angeles. The premises shall be equipped with lightening fixtures of sufficient intensity to illuminate all interior areas of the premises accessible to patrons with an illumination of not less than two foot-candles evenly distributed as measured at floor level.

(ii) All walls, ceilings, floors, pools, showers, bathtubs, wet and dry heat rooms, steam or vapor rooms, tables and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms or cabinets, showers, compartments and toilet rooms shall be thoroughly cleaned at least once each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.

(iii) Any locker facilities provided for the use of patrons shall be fully secured for the protection of the patron's valuables and the patron shall be given control of the key or other means of access.

(iv) Hot and cold running water shall be provided at all times.

(v) No Massage Establishment located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area shall block visibility into the interior reception and waiting area through the use of curtains, closed blinds, tints or any other material that obstructs, blurs or unreasonably darkens the view into the premises.

(v) The front door of the Massage Establishment and the doors of the interior treatment rooms in which massages are being performed must remain unlocked during all hours of operation unless the Massage Establishment is owned by one individual with one or no employees or independent contractors. No electronic locking device may be utilized on any entrance door. No warning devices such as buzzers may be installed.

(vii) No part of the Massage Establishment shall be used for residential sleeping purposes.

7. Inspections.

(i) The Chief of Police or his authorized representative shall have the right to enter each and every part of the Massage Establishment for the purpose of making unscheduled inspections to observe and enforce compliance with applicable regulations, laws, and provisions of this section. It shall be unlawful for any permittee to fail to allow an inspection of the premises or hinder the inspection in any manner.

(e) **Out-Call Massage Business – Operating Requirements.**

1. No out-call massage may be administered between 10:00 p.m. and 7:00 a.m.

2. The Massage Practitioner and Massage Therapist shall have his or her CAMTC identification card in his or her possession while providing massage services.

3. A record of treatment shall be maintained by each Massage Practitioner and Massage Therapist employed by the business. Such records shall be maintained for a period of one year.

4. No person operating an Out-Call Massage Business shall allow a person to perform massage therapy unless such person has a valid, unrevoked CAMTC Massage Practitioner or Massage Therapist certificate.

5. The operating requirements set forth in Section 103.205(d)(3) shall apply to an Out-Call Massage Business.

6. No Out-Call Massage Business shall place, publish or distribute, or cause to be placed, published or distributed, any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than those services described in this section, nor shall any Out-Call Massage Business 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 section.

7. No Massage Practitioner, Massage Therapist or employee shall expose his or her genitals, buttocks or, in the case of a female, her breast or make intentional contact with the genitals or anus of another person.

8. The Out-Call Massage Business shall not refuse service on the basis of a customer's sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation or other arbitrary factor proscribed by the Unruh Civil Rights Act, Civil Code Section 51, et seq.

9. Upon any change of employees, the permittee shall inform the Board within ten days of such change.

(f) **Massage Establishment/Out-Call Permit Issuance and Denial.** Upon receipt of written application for a permit, the Board shall conduct an investigation to ascertain whether such permit should be issued. The permit shall be denied if the Board makes any of the following findings:

1. The applicant or any person who will be employed in the Massage Establishment or Out-Call Massage Business has been convicted within the previous five years of a violation of Health and Safety Code Section 11550 or a violation of Penal Code Sections 266i, 315, 316, 318, 647(a), 647(b); or has been convicted in any other state of any offense which, if committed in California, would have been punished as one or more of the above-mentioned offenses; or that any such person is required to register under the provisions of Penal Code Section 290.

2. The applicant or any person who will be employed in the Massage Establishment or Out-Call Massage Business who has been convicted of any felony offense within the previous five years involving the sale of a controlled substance specified in Health and Safety Code Sections 11054, 11055, 11056, 11057 or 11058; or has been convicted in any other state of any offense which, if committed in California, would have been punishable as one or more of the above mentioned offenses.

3. The applicant or any person who will be employed in the Massage Establishment or Out-Call Massage Business who has committed an act which, if committed by a permittee under this Section, would be grounds for suspension or revocation of the permit.

4. The operations of the Massage Establishment or Out-Call Massage Business would constitute a public nuisance.

5. The applicant has knowingly made a false, misleading or fraudulent statement of fact in the permit application process.

6. The application does not contain material information required by this section.

7. The applicant has not satisfied the requirements of this Code.

(g) **Violation.** Violations of the operating requirements in Subdivision (d) or (e) of this section, or any rules or regulations adopted by the Board governing Massage Establishments or Out-Call Massage Businesses, shall not be prosecuted as misdemeanors, but shall be subject to administrative sanctions and civil remedies as provided by this Code, or at law or in equity, or any combination of these.

Any person operating as a Massage Establishment or Out-Call Massage Business without a permit as required in Subdivision (b) of this section shall be guilty of a misdemeanor.

(h) **Severability.** If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance which can be implemented

without the invalid provisions, and to this end, the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

Sec. 2. Section 103.205.1 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 103.205.1. MASSAGE THERAPISTS AND PRACTITIONERS.

(a) **Definitions.** The words and phrases defined in Section 103.205(a) of this Code, shall have the same meanings when used in this section.

(b) Effective January 1, 2016, all persons performing massage services from any location in the City shall be required to possess a valid, unrevoked California Massage Therapy Council Massage Practitioner or Massage Therapist certificate. All Massage Therapist permits issued by the Board prior to January 1, 2016, shall be considered null and void.

(c) **Exemptions.** The provisions of Subsection (b) shall not apply to the following classes of individuals, and no permit shall be required of such persons, while engaged in the performance of the duties of their respective professions:

1. Physicians, surgeons, chiropractors, osteopaths, podiatrists, acupuncturists or physical therapists who are duly licensed to practice their respective professions in the State of California.
2. Nurses who are registered under the laws of the State of California.
3. Barbers and beauticians who are duly licensed under the laws of the State of California.
4. Athletic trainers employed by, or on behalf of, an amateur, semi-professional or professional athletic team performing or training within California.
5. Coaches and athletic trainers of accredited high schools, junior colleges, colleges and universities.
6. Hospitals, nursing homes, sanitariums, or other health care facilities duly licensed by the State of California.
7. Any other business or profession exempted by state law.

(d) **Penalty.** Any person operating as a Massage Practitioner or Massage Therapist without a certificate as required in Subdivision (b) of this section shall be guilty of a misdemeanor.

(e) **Severability.** If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance which can be implemented without the invalid provisions, and to this end, the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

HOLLY L. WOLCOTT, City Clerk

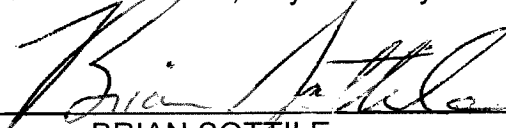
By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
BRIAN SOTTILE
Deputy City Attorney

Date 5-14-15

File No. _____