

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CATHEDRAL CITY AMENDING CHAPTER 5.33, "MASSAGE THERAPY PERMITS" OF TITLE 5, "BUSINESS REGULATIONS" OF THE CATHEDRAL CITY MUNICIPAL CODE

WHEREAS, the City of Cathedral City ("City") has recently uncovered illegal activity occurring at multiple massage therapy establishments within the City; and

WHEREAS, the City anticipates and wishes to avoid massage therapy establishments from re-opening in the same location and conducting the same illegal activity shortly after closure; and

WHEREAS, the City's Municipal Code currently lacks the ability to regulate the re-opening of the same type of business in the same location for a specified amount of time after such establishment has closed due to criminal activity; and

WHEREAS, the City Council anticipates that certain massage therapy establishments may attempt to re-open in the same location after the City has worked to close them, and may continue to conduct the same illegal; and

WHEREAS, the City Council wishes to balance and protect the rights of commercial property owners and other innocent parties in order to ensure that they are not inadvertently punished for the conduct of unscrupulous massage establishments; and

WHEREAS, the City Council desires to enact a regulation to require a new massage therapy establishment to undergo a background check if the new establishment seeks to open in the same location as any other massage establishment that was closed due to criminal activity during the past year; and

WHEREAS, to protect the public health, safety, and welfare, it is the desire of the City Council to modify the Cathedral City Municipal Code ("Municipal Code") regarding the location and operation of massage businesses; and

WHEREAS, the City Council also wishes to update its massage establishment ordinance in other respects in order to impose additional health and safety operational regulations to apply to massage establishments; and

WHEREAS, the City Council has determined that the adoption of this ordinance is necessary to protect the health and safety of the general public.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CATHEDRAL CITY DOES ORDAIN AS FOLLOWS:

Section 1. RECITALS

The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. AMENDING SECTION 5.33.025, "EXEMPTIONS", TO CHAPTER 5.33 "MASSAGE THERAPY PERMITS" TO THE CATHEDRAL CITY MUNICIPAL CODE

Cathedral City Municipal Code Section 5.33.025 shall be amended to read as follows:

Section 5.33.025 Exemptions.

The provisions of this chapter shall not apply to any of the following:

A. Any physician, surgeon, chiropractor, or osteopath, ~~or acupuncturist~~ duly licensed to practice their respective professions in the state, or any nurse or physical therapist working under the supervision thereof, when engaging in any massage therapy practice or activity within the scope of said license. Practical nurses or other persons without qualifications as massage therapists or other persons not duly licensed by the state to practice pursuant to the Medical Practice Act, whether or not employed by a physician, surgeon, chiropractor, or osteopath, ~~or acupuncturist~~, may not perform or offer to perform massage therapy without first obtaining a personal massage therapist permit pursuant to the provisions of this chapter.

B. Acupuncturists who are duly licensed to practice their respective profession in the state. The exemption herein only applies if the massage therapy is performed by the aforementioned licensed professional to the treated area. If a duly licensed acupuncturist wished to provide massage therapy by another individual(s), that other individual(s) is not exempt from this chapter and the acupuncturist/owner must obtain a massage establishment permit from the City.

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

C. Barbers, beauticians, manicurists, and pedicurists who

are duly licensed under the laws of the state, except that this exemption shall apply solely to the massaging of the scalp, face, neck, arms, hands, or feet of the customer or client for cosmetic or beautifying purposes.

Section 3. ADDING SECTION 5.33.045, "RESTRICTION ON SAME LOCATION AFTER CLOSURE DUE TO CRIMINAL ACTIVITY", TO CHAPTER 5.33 "MESSAGE THERAPY PERMITS" TO THE CATHEDRAL CITY MUNICIPAL CODE

Cathedral City Municipal Code Section 5.33.045 shall be added to Chapter 5.33 of the Municipal Code and shall include the following:

Section 5.33.045 Restriction on same location after closure due to criminal activity.

Notwithstanding any other provision of this Code to the contrary, when a massage establishment has been closed due to criminal activity, any new massage establishment wishing to open in the same location, the following provisions shall apply:

A) As part of the business license application process, the applicant and the on-site manager, if different from the applicant, shall be required to undergo a background check.

B) This provision shall apply to all business license applicants who wish to open a massage establishment in a location subject to this Section, including both persons who possess a valid certification recognized by the state pursuant to Chapter 10.5 of Division 2 of the California Business and Professions Code and persons who do not possess such certification.

C) The background check required under this chapter shall be conducted in the same manner as background checks conducted pursuant to Section 5.33.110(D). The applicant shall be required to complete all the same processes as if he or she were applying for a massage establishment permit pursuant to Section 5.33.110.

D) The applicant shall be required to pay all fees for the background check as required pursuant to Section 5.33.110(F).

Section 4. AMENDING SECTION 5.33.110, "MESSAGE THERAPY ESTABLISHMENT PERMIT APPLICATION", TO CHAPTER 5.33 "MESSAGE THERAPY PERMITS" TO THE CATHEDRAL CITY MUNICIPAL CODE

Cathedral City Municipal Code Section 5.33.110 shall be amended to read as follows:

Section 5.33.110 Massage therapy establishment permit application.

This section is limited by, and subject to the provisions in Section 5.33.030.

A. An application for a massage therapy establishment permit shall be made on a form provided by the city.

B. The following information and the following documents must be submitted with all applications for massage therapy establishment permits:

1. If the applicant is:

a. An individual, the applicant shall provide his or her legal name, any aliases, and date of birth,

b. A partnership, the applicant shall provide the complete name of the partnership, the legal names of all the general partners, any aliases, and dates of birth,

c. A corporation, the applicant shall provide the complete name of the corporation, the legal names and any aliases, dates of birth and capacity of all officers;

2. The name of the business;

3. The name of the prospective on-site manager, if different from the applicant;

4. The location of the proposed massage therapy establishment, including a legal description of the property, street address, and telephone number(s) currently in service;

5. The applicant's home and/or business address and the home and/or business address of the prospective on-site manager if other than the applicant;

6. A recent photograph of the applicant and the prospective on-site manager if other than the applicant;

7. Driver's license number or identification number of the applicant and the prospective on-site manager if other than the applicant;

8. The applicant's and the prospective on-site manager's, if other than the applicant, fingerprints taken by the police department or other law enforcement agency within the

previous sixty calendar days and approved by the police chief;

9. The applicant's and the prospective on-site manager's, if other than the applicant, social security numbers and/or state or federally issued tax identification number;

10. The previous addresses of applicant and the prospective on-site manager, if other than the applicant, for the ten years prior to the date of the application and the dates of residency at each such address;

11. 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 the submission of the application, the applicant shall provide the required information no later than ten (10) calendar days prior to opening for business;

~~11.~~**12.** The names, addresses and descriptions of all current and former businesses owned, operated or managed by applicant and prospective on-site manager, if other than the applicant, for the ten years prior to the date of the application and the dates the applicant and the prospective on-site manager owned, operated or managed such business;

~~12.~~**13.** If the application is for a stand-alone massage therapy establishment, a sealed certified transcript and a certified copy of the applicant's or prospective on-site manager's (if other than applicant) diploma or certificate of graduation from a recognized school of massage verifying that the applicant has completed at least seven hundred hours of massage therapy training;

~~13.~~**14.** A list of all of applicant's and prospective on-site manager's, if the on-site manager is different from the applicant, convictions excluding traffic violations;

~~14.~~**15.** A declaration signed under penalty of perjury by the applicant and prospective on-site manager, if other than the applicant, that provides that the declarant has not been convicted of any of the following: (a) pandering as set forth in California Penal Code Section 266i, (b) keeping or residing in a house of ill-fame as set forth in California Penal Code Section 315, (c) keeping a disorderly house as set forth in California Penal Code Section 316, (d) prevailing upon a person to visit a place of illegal gambling or prostitution as set forth in California Penal Code Section 318, (e) lewd conduct as set forth in California Penal Code Section 647, subdivision (a), or (f) prostitution activities as set forth in California Penal Code Section 647, subdivision (b);

15.16. A declaration signed under penalty of perjury by the applicant and prospective on-site manager, if other than the applicant, that provides that the declarant has not been convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses set forth in California Penal Code Section 266(i), 315, 316, 318, or 647, subdivision (a) or (b);

16.17. A declaration signed under penalty of perjury by the applicant and prospective on-site manager, if other than the applicant, that provides that the declarant is not required to register as a sex offender as set forth in California Penal Code Section 290;

17.18. A declaration signed under penalty of perjury by the applicant and prospective on-site manager, if other than the applicant, that provides that the declarant has not been convicted of any felony offense involving the sale of any controlled substance specified in California Health and Safety Code Section 11054, 11055, 11056, 11057, or 11058;

18.19. A declaration signed under penalty of perjury by the applicant and prospective on-site manager, if other than the applicant, that provides that the declarant has not been convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as a felony offense involving the sale of any controlled substance specified in California Health and Safety Code Section 11054, 11055, 11056, 11057, or 11058;

19.20. A declaration signed under penalty of perjury by the applicant and prospective on-site manager, if other than the applicant, regarding whether the declarant has had a previous massage therapy establishment permit, an outcall massage therapist permit, a personal massage therapist permit or any other massage permit issued pursuant to this chapter or any other similar massage permit ordinance of the city or other jurisdiction, which was denied, suspended or revoked; and if any such denial, suspension or revocation occurred, the declarant shall provide the name and location of the massage establishment for which the license or permit was denied, suspended or revoked, the date of the denial, suspension or revocation, and the reason or reasons for the denial, suspension or revocation;

20.21. A declaration signed under penalty of perjury by the applicant and prospective on-site manager, if other than the applicant, regarding whether the declarant has been a sole proprietor, general partner, officer, or director of any massage establishment or other massage business that has had a previous massage establishment permit or other massage permit issued pursuant to this chapter or any other similar massage ordinance of

the city or other jurisdiction which was denied, suspended or revoked, and if any such denial, suspension or revocation occurred the declarant shall provide the name and location of the massage establishment or business for which the permit was denied, suspended or revoked the date of the denial, suspension or revocation, and the reason or reasons for the denial, suspension or revocation;

21.22. A certified statement from the real property owner authorizing the proposed use of the premises as a massage establishment;

22.23. A sketch or diagram showing the configuration of the premises of the massage establishment, drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches, including a statement of total floor space occupied by the massage establishment;

23.24. A drawing or other document showing the location of all fire extinguishers.

C. The applicant shall provide proof of legal title or a possessory or leasehold interest in the real property upon which the proposed massage establishment will be operated.

D. The applicant and the prospective on-site manager, if other than the applicant, shall provide the city with the authorization to conduct the necessary background investigations to determine the truthfulness and correctness of the information provided by applicant and to determine whether applicant is qualified pursuant to this chapter to receive the requested massage therapy establishment permit.

E. The applicant and the prospective on-site manager, if other than the applicant, shall date and sign the application under penalty of perjury that the information contained in the application is true and correct.

F. The applicant shall provide proof of a policy of insurance issued by an insurance company authorized to do business in the state of California evidencing that the applicant is insured under a liability insurance policy providing minimum coverage of one million dollars for injury or death to one person arising out of the operation of any massage establishment and the administration of a massage. Such insurance policy must remain in full force and effect at all times the establishment is open and operational.

~~F.~~G. The applicant shall pay an application deposit fee in

an amount as established from time to time by the city council, at the time of filing an application pursuant to this chapter to pay for the administrative costs associated with the city planner's review of the application and the fingerprinting costs and background investigation costs of the police department. If additional funds are necessary to cover the above costs, the applicant shall pay such additional costs to the city planner before further processing of the application may proceed. Any unused portion of the deposit shall be refunded to the applicant.

Section 5. AMENDING SECTION 5.33.200, "INSPECTIONS", TO CHAPTER 5.33 "MASSAGE THERAPY PERMITS" TO THE CATHEDRAL CITY MUNICIPAL CODE

Cathedral City Municipal Code Section 5.33.200 shall be amended to read as follows:

Section 5.33.200 Inspections.

A. Representatives of the city including, but not limited to representatives of the police department, community development department **(including but not limited to the building and safety division and the code compliance division)**, fire department, health department and divisions thereof, may inspect the premises of a massage therapy establishment for the purposes of insuring compliance with the law at any time said establishment is occupied or open for business pursuant to the inspection provisions set forth in Chapter 13.50 of the municipal code.

B. **It shall be deemed a misdemeanor offense for an operator, manager, their agent, servant or employee to refuse to permit, delay or interfere with a lawful inspection of the premises by a representative of the city pursuant to subsection (a) of this section.**

Section 6. AMENDING SECTION 5.33.210, "MASSAGE THERAPY ESTABLISHMENTS-EXTERIOR LIGHTING", TO CHAPTER 5.33 "MASSAGE THERAPY PERMITS" TO THE CATHEDRAL CITY MUNICIPAL CODE

Cathedral City Municipal Code Section 5.33.210 shall be amended to read as follows:

Section 5.33.210 Massage therapy establishments - exterior lighting.

All off-street parking locations entrances and exits provided for or belonging to the massage therapy establishment shall be illuminated from dusk to closing hours with a lighting system that provides an average maintained horizontal illumination of ~~one foot~~

~~candle of light~~ 80 watts or the equivalent on the parking surface and walkways.

Section 7. AMENDING SECTION 5.33.220, "MESSAGE THERAPY ESTABLISHMENTS-EXTERIOR SIGNAGE", TO CHAPTER 5.33 "MESSAGE THERAPY PERMITS" TO THE CATHEDRAL CITY MUNICIPAL CODE

Cathedral City Municipal Code Section 5.33.220 shall be amended to read as follows:

Section 5.33.220 Massage therapy establishments - exterior signage.

A. A recognizable and readable sign that complies with all sign regulations of the city shall be posted at the main entrance of the massage therapy establishment identifying the name of the massage therapy establishment. The sign, and the front of the business, shall not be illuminated by strobe or flashing lights.

B. A recognizable and readable sign that complies with all sign regulations of the city shall be posted at the main entrance of the massage therapy establishment identifying the hours of operation of the massage therapy establishment. The sign shall not be illuminated by strobe or flashing lights.

C. All signs shall be in conformance with the Chapter 9.62 of this Code, which governs signs.

Section 8. AMENDING SECTION 5.33.250, "MESSAGE THERAPY ESTABLISHMENTS-RECEPTION AREA", TO CHAPTER 5.33 "MESSAGE THERAPY PERMITS" TO THE CATHEDRAL CITY MUNICIPAL CODE

Cathedral City Municipal Code Section 5.33.250 shall be amended to read as follows:

Section 5.33.250 Massage therapy establishments - reception area.

A. At least one artificial light providing a lighting intensity of not less than ~~thirty foot candle power~~ 60 watts or the equivalent at floor level shall be installed in the reception area.

B. The reception area must be constructed and arranged in a

manner such that when any customer or other person enters the area from outside the premises, the receptionist or other employee handling intake of customers shall be immediately visible.

Section 9. AMENDING SECTION 5.33.260, "MASSAGE THERAPY ESTABLISHMENTS-MASSAGE THERAPY ROOMS", TO CHAPTER 5.33 "MASSAGE THERAPY PERMITS" TO THE CATHEDRAL CITY MUNICIPAL CODE

Cathedral City Municipal Code Section 5.33.260 shall be amended to read as follows:

Section 5.33.260 Massage therapy establishments - massage therapy rooms.

A. ~~At least one artificial light providing a lighting intensity of not less than twenty foot candle power at floor level shall be installed in each massage therapy room.~~ The lighting in each massage room shall be at least one sixty watt white light bulb or the equivalent and shall be activated at all times while any 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.

B. There shall be no locks on any massage therapy room or any other device which impedes or obstructs access to the massage therapy room. 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. 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. Notwithstanding the requirements in this subsection, the requirements in this subsection requiring exterior doors to remain unlocked is are not required if the massage establishment is a business entity owned by one individual with one or no employees or independent contractors. ~~if either: (1) the sole proprietor of the establishment possesses a valid certification recognized by the state (issued by the MTO) pursuant to Chapter 10.5 of Division 2 of the California Business and Professions Code; or (2) when the establishment employs or uses only persons who possess a valid certification recognized by the state (issued by the MTO) pursuant to Chapter 10.5 of Division 2 of~~

~~the California Business and Professions Code.~~

C. There shall be walls installed between each massage therapy room and such walls shall contain no openings other than doors between adjacent rooms.

Section 10. AMENDING SECTION 5.33.280, "EMPLOYEE DRESS AND IDENTIFICATION", TO CHAPTER 5.33 "MASSAGE THERAPY PERMITS" TO THE CATHEDRAL CITY MUNICIPAL CODE

Cathedral City Municipal Code Section 5.33.280 shall be amended to read as follows:

5.33.280 ~~Therapist~~ Employee dress and identification.

A. During all times that he or she is performing or offering to perform massage therapy services, every massage therapist shall wear a badge that identifies his or her first or last name. Upon receipt of a request or complaint by a patron, the massage therapist shall advise the patron of the full name of the massage therapy establishment through which the massage therapy services were arranged, and the identity of the city manager or designee at the city through whom the therapist was issued his or her qualifying personal massage therapist permit.

B. All massage therapists shall have in their possession a valid personal massage therapy permit issued pursuant to this chapter or a copy of a valid certification recognized by the state (issued by the MTO) pursuant to Chapter 10.5 of Division 2 of the California Business and Professions Code, as well as valid identification at all times that he or she is performing or offering to perform massage therapy services within the city.

~~C. All massage therapists shall wear non-transparent outer garments covering all specified anatomical areas while performing or offering to perform any massage therapy services.~~
All employees, including but not limited to massage therapists, shall, at all times while on the business premises, wear clean, nontransparent outer garments. Under no circumstances shall these garments permit the genitals, pubic area, buttocks or chest to be exposed.

Section 11. AMENDING SECTION 5.33.300, "MASSAGE THERAPY ESTABLISHMENTS-SHOWERS, BATHS, AND TOILETS", TO CHAPTER 5.33 "MASSAGE THERAPY PERMITS" TO THE CATHEDRAL CITY MUNICIPAL CODE

Cathedral City Municipal Code Section 5.33.300 shall be

amended to read as follows:

Section 5.33.300 Massage therapy establishments - showers, baths and toilets.

A. Only one client shall be permitted in a room containing a shower stall, bath stall or toilet facility at any one time unless otherwise permitted by any applicable local, state, or federal law or regulation or accompanied by a massage therapist for massage therapy purposes.

B. Each room containing a shower, bath and/or toilet shall have a door that is self-closing and locking.

C. An artificial light providing a lighting intensity of not less than ~~thirty foot candle power~~ 60 watts or the equivalent at floor level shall be installed in any room containing a shower, bath and/or toilet.

Section 12. AMENDING SECTION 5.33.310, "MESSAGE THERAPY ESTABLISHMENTS-SANITARY CONDITIONS", TO CHAPTER 5.33 "MESSAGE THERAPY PERMITS" TO THE CATHEDRAL CITY MUNICIPAL CODE

Cathedral City Municipal Code Section 5.33.310 shall be amended to read as follows:

Section 5.33.310 Massage therapy establishments - Sanitary conditions.

A. The premises of the massage therapy establishment shall have adequate equipment for disinfecting and/or sanitizing non-disposable instruments and materials used in administering massages.

B. All nondisposable instruments and materials shall be disinfected and/or sanitized after each use on each client.

C. All walls, ceilings, floors, showers, bathtubs, water basins, toilets, and all other facilities must be maintained in good repair and in a clean and sanitary condition and be located within the massage establishment.

D. All showers, bathtubs, water basins, and toilets shall be thoroughly cleaned at least once each day the massage therapy establishment is in operation.

E. Water basins with hot and cold running water from a potable source and soap dispensers shall be available to clients.

F. A trash receptacle shall be provided in each massage therapy room and any room containing a shower, bathtub, water basin and/or toilet.

G. Bathtubs shall be thoroughly cleaned after each use.

H. All clients shall be provided clean and sanitary towels, sheets, linens, and clean, sanitary and opaque coverings of a minimum size of thirty inches by sixty inches, capable of covering the patrons' specified anatomical areas, including, but not limited to, 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 re-use.

I. Towels, sheets and linens shall be provided in sufficient quantity and shall not be used by more than one person unless such towels, sheets and linens have been relaundered.

J. Separate closed cabinets or containers shall be provided for the storage of clean and soiled towels, sheets and linens, and such cabinets or containers shall be plainly marked "clean linen" and "soiled linen."

K. Massage table cover pads that come into contact with the body of a client shall be clean.

L. A massage table shall be provided in each massage room and all massages shall be performed on the massage table. The tables shall have a width of 28 to 33 inches, an adjustable height of 22-34 inches, a length of 72-73 inches, with a 2-3 inch foam deck with a washable surface. Beds, floor mattresses and waterbeds shall not be permitted on the premises.

Section 13. ADDING SECTION 5.33.342, "ON-SITE MANAGER REQUIREMENT", TO CHAPTER 5.33 "MASSAGE THERAPY PERMITS" TO THE CATHEDRAL CITY MUNICIPAL CODE

Cathedral City Municipal Code Section 5.33.342 shall be added to read as follows:

Section 5.33.342 On-site manager requirement.

A. The on-site manager, or another designated manager, shall be on the premises at all times the massage establishment is open. If persons other than the on-site manager will be designated, a list shall be submitted to the Director of Community Development with all other designated managers named.

B. The on-site 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 therapist in a conspicuous public place in the lobby of the massage establishment.

C. The on-site manager shall be familiar with all the requirements of this chapter, and shall be responsible for ensuring that all the requirements of this chapter are complied with.

D. The on-site manager shall be responsible for the conduct of all employees while they are on the massage establishment premises.

E. 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 and on-site manager for purposes of determining whether the operator's business license shall be revoked, suspended, denied or renewed.

Section 14. ADDING SECTION 5.33.344, "RECORDS", TO CHAPTER
5.33 "MASSAGE THERAPY PERMITS" TO THE
CATHEDRAL CITY MUNICIPAL CODE

Cathedral City Municipal Code Section 5.33.344 shall be added to read as follows:

Section 5.33.344 Records.

Every operator and/or on-site manager shall keep a record of the dates and hours of each treatment or service, the full name and address of the patron, the name of the massage therapist administering such service and a description of the treatment or service rendered. A short medical history form shall be completed by the operator and/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. The massage therapist must also complete a form indicating the subjective client reported status, objective practitioner reported findings, an assessment of the client's response to the treatment, and a plan with recommendations for self-care and a plan for future care for each patient as recommended by professional massage organizations such as Associated Bodywork and Massage Professionals. 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. Authorized city officials 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.

Section 15. ADDING SECTION 5.33.348, "ACCESS", TO CHAPTER 5.33 "MESSAGE THERAPY PERMITS" TO THE CATHEDRAL CITY MUNICIPAL CODE

Cathedral City Municipal Code Section 5.33.348 shall be added to read as follows:

Section 5.33.348 Access.

No person(s) other than the owner, operator, operator's employees, massage therapists, 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 front interior door leading to the inside of the business including, but not limited to, hallways, massage rooms, reception/business offices or lounge area will be in violation of this section. Entry doors to any room shall not be obstructed by any means, except as permitted by section 5.33.260 of this chapter.

Section 16. ADDING SECTION 5.33.350, "NOTICES", TO CHAPTER 5.33 "MESSAGE THERAPY PERMITS" TO THE CATHEDRAL CITY MUNICIPAL CODE

Cathedral City Municipal Code Section 5.33.350 shall be added to read as follows:

Section 5.33.350 Notices.

The chief of police and/or the director of community development shall require that the following notice be posted in the event that any employee of the massage establishment or any person who has been aided and abetted by an employee of the massage establishment has been found, after full hearing by administrative proceeding or by a State Court, to have violated any of the

offenses that would be grounds for denial of a business license under chapter 5.01:

NOTICE TO ALL PATRONS

THIS MASSAGE ESTABLISHMENT AND THE MASSAGE ROOMS DO NOT PROVIDE COMPLETE PRIVACY AND ARE SUBJECT TO INSPECTION BY THE CITY OF CATHEDRAL CITY WITHOUT PRIOR NOTICE.

A. Every owner, operator and/or on-site manager required to post such notice shall be required to pay for the cost of any and all notices required by this section.

B. The notice shall be conspicuously posted in a location within the massage establishment that is easily visible to any person entering the premises and in each massage room. The notices shall be posted for twelve months following the violation of any of the offenses set forth herein.

Section 17. ADDING SECTION 5.33.354, "COMMUNICATION DEVICES", TO CHAPTER 5.33 "MESSAGE THERAPY PERMITS" TO THE CATHEDRAL CITY MUNICIPAL CODE

Cathedral City Municipal Code Section 5.33.354 shall be amended to read as follows:

Section 5.33.354 COMMUNICATION DEVICES.

A. No person operating a massage establishment shall permit communication devices to be installed or used in any manner on the premises so as to interfere with or hinder inspections by code or law enforcement offers.

B. For the privacy of clients, no cellular telephone may be kept in any room while a massage is taking place in that room. This provision only applies to the establishment and its employees and agents and does not apply to clients.

Section 18. AMENDING SECTION 5.33.360, "PROHIBITED ACTIVITIES", TO CHAPTER 5.33 "MESSAGE THERAPY PERMITS" TO THE CATHEDRAL CITY MUNICIPAL CODE

Cathedral City Municipal Code Section 5.33.360 shall be amended to read as follows:

Section 5.33.360 Prohibited activities.

A. It is unlawful for any massage therapist, any patron, or any other persons present where massage therapy services are being offered or performed, to expose or touch any specific anatomical areas, whether his or her own, or those of another person.

B. It is unlawful for any massage therapist, any patron, or any other person present where massage therapy services are being offered or performed, to be in a state of full nudity or semi-nudity.

C. It is unlawful for any massage therapist, any patron, or any other person present where massage therapy services are being offered or performed, to engage in any specified sexual activities.

D. No person shall provide or offer to provide any massage therapy services to a minor unless written permission is provided by the minor's parent or legal guardian.

E. No permittee shall provide or offer to provide massage therapy services under any name not specified in the qualifying permit or a valid certification recognized by the state (issued by the MTO) pursuant to Chapter 10.5 of Division 2 of the California Business and Professions Code.

F. No massage therapist permittee shall perform or offer to perform massage therapy services at any site other than a lawfully operating massage therapy establishment unless the permittee's massage therapist permit includes an off-premises endorsement, unless the permittee maintains a valid certification recognized by the state (issued by the MTO) pursuant to Chapter 10.5 of Division 2 of the California Business and Professions Code.

G. No permittee shall provide or offer any alcoholic beverage to a patron during the course of providing or offering to provide any massage therapy service.

H. No permittee shall transfer or assign any permit issued pursuant to this chapter to another person or entity.

I. No massage therapy establishment permittee shall permit any patron to be administered any massage services without the patron first being informed of the services to be performed and the cost of each such service. It will be presumed that patrons are informed of the cost of each service if a notice listing all available services and the charges for each is posted so as to be readily visible to patrons upon entry into the facility.

J. No massage therapy establishment permitted shall employ a person under eighteen years of age.

K. No massage establishment shall operate as a school of massage, or use the same facilities as that of a school of massage.

L. No person or persons shall be allowed to reside, dwell, occupy, live, or sleep 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 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.

Section 19. SEVERABILITY

The City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 20. ENVIRONMENTAL FINDINGS

The City Council finds that adoption of this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to Title 14 California Code of Regulations section 15061, subsection (b)(3), because there is nothing in this chapter or its implementation that could foreseeably have any impact on the environment.

Section 21. SEVERABILITY

The City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 22. AMENDING OF BAIL SCHEDULE

The City Attorney's Office is hereby directed to determine whether this ordinance necessitates amendment of the City's Bail

Schedule and to cause such necessary amendments to be made and filed with the local branches of the Superior Court of the County of Riverside.

Section 23. EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after its second reading by the City Council.

Section 24. CITY ATTORNEY REVIEW

The City Attorney prepared and framed this ordinance pursuant to Section 1.04.010 of the Municipal Code and finds that the City Council has the authority to adopt this ordinance, that the ordinance is constitutionally valid and that the ordinance is consistent with the general powers and purposes of the City as set forth in Section 1.04.031 of the Municipal Code.

Section 25. EXECUTION AND CERTIFICATION

The City Clerk shall certify to the passage of this Ordinance and shall cause the same to be published according to law.

The foregoing Ordinance was approved and adopted at a meeting of the City Council held on _____, 2015 by the following vote:

- Ayes:
- Noes:
- Abstain:
- Absent:

Stan Henry, Mayor

ATTEST:

Gary F. Howell, City Clerk

APPROVED AS TO FORM:

Charles R. Green, City Attorney

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