

ITEM 11.A.

ORDINANCE NO. 398

AN ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA, REPLACING IN ITS ENTIRETY CHAPTER 5.48 MASSAGE ESTABLISHMENTS AND THERAPISTS, OF TITLE 5 BUSINESS TAXES, LICENSES AND REGULATIONS, AND AMENDING SECTION 17.08.010 APPLICATION OF DEFINITIONS OF CHAPTER 17.08 DEFINITIONS, AND SECTION 17.20.060 PERMITTED USES IN COMMERCIAL AND INDUSTRIAL ZONES OF CHAPTER 17.20 USES BY ZONE, OF TITLE 17 ZONING, OF THE MOORPARK MUNICIPAL CODE

WHEREAS, on April 21, 2010, the City Council adopted Resolution No. 2010-2898, directing the Planning Commission to study, hold a public hearing, and provide a recommendation to the City Council on an amending Chapter 5.48 Massage Establishments and Therapists, of Title 5 Business Taxes, Licenses and Regulations, and Chapter 17.08 Definitions, and Chapter 17.20 Uses by Zone, of Title 17 Zoning, of the Moorpark Municipal Code.

WHEREAS, Ordinance No. 387 was adopted on May 19, 2010, making findings and extending a temporary moratorium on permitting new massage establishments within the City of Moorpark, through and including April 20, 2011, and will no longer be necessary; and

WHEREAS, at its meeting of November 30, 2010, the Planning Commission conducted a duly-noticed public hearing on replacing in its entirety Chapter 5.48 Massage Establishments and Therapists, of Title 5 Business Taxes, Licenses and Regulations; and amending Section 17.08.010 Application of definitions of Chapter 17.08 Definitions, and Section 17.20.060 Permitted uses in commercial and industrial zones of Chapter 17.20 Uses by Zone, of Title 17 Zoning, of the Moorpark Municipal Code, received public testimony on the proposed amendments, and after receiving oral and written public testimony, closed the public hearing and recommended approval of the proposed Moorpark Municipal Code amendments to the City Council; and

WHEREAS, at its meeting of February 2, 2011, the City Council conducted a duly-noticed public hearing on replacing in its entirety Chapter 5.48 Massage Establishments and Therapists, of Title 5 Business Taxes, Licenses and Regulations; and amending Section 17.08.010 Application of definitions of Chapter 17.08 Definitions, and Section 17.20.060 Permitted uses in commercial and industrial zones of Chapter 17.20 Uses by Zone, of Title 17 Zoning, of the Moorpark Municipal Code, received public testimony on the proposed amendments, and after receiving oral and written public testimony, closed the public hearing and reached a decision;

WHEREAS, the City Council concurs with the Community Development Director's determination that this project is exempt from the provisions of the California

Environmental Quality Act by the general rule that CEQA only applies to projects that may have a significant effect on the environment.

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

SECTION 1. GENERAL PLAN AND SPECIFIC PLAN CONSISTENCY: The City Council finds the proposed amendments to the Moorpark Municipal Code to be consistent with the City of Moorpark General Plan and all adopted Specific Plans.

SECTION 2. Chapter 5.48 Massage Establishments and Therapists, of Title 5 Business Taxes, Licenses and Regulations, of the Moorpark Municipal Code is replaced in its entirety, as shown in Exhibit A.

SECTION 3. Section 17.08.010 Application of definitions of Chapter 17.08 Definitions of Title 17 Zoning is amended by removing the definition of "Personal services" and adding the definition of "Personal service establishment", as shown in Exhibit B.

SECTION 4. Section 17.20.060 Permitted uses in commercial and industrial zones of Chapter 17.20 Uses by Zone of Title 17 Zoning is amended by replacing Table 17.20.060 PERMITTED USES IN COMMERCIAL AND INDUSTRIAL ZONES in its entirety, as shown in Exhibit C.

SECTION 5. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 6. This Ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 7. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published once in the Ventura County Star a newspaper of general circulation, as defined in Section 6008 of the Government Code, for the City of Moorpark, and which is hereby designated for that purpose.

PASSED AND ADOPTED this 16th day of February, 2011.

Janice S. Parvin, Mayor

Maureen Benson, City Clerk

ATTACHMENTS:

- Exhibit A: Proposed Amended Chapter 5.48
- Exhibit B: Proposed Amendment to Section 17.08.010
- Exhibit C: Proposed Amendment to Section 17.20.060

EXHIBIT A

Chapter 5.48

MESSAGE ESTABLISHMENTS AND THERAPISTS

Sections:

- 5.48.010 Purpose.**
- 5.48.020 Definitions.**
- 5.48.030 Required Massage Therapy Organization certificate and business license.**
- 5.48.040 Exceptions.**
- 5.48.050 Massage business license.**
- 5.48.060 License renewal.**
- 5.48.070 Suspension or revocation.**
- 5.48.080 Appeals.**
- 5.48.090 Massage facilities and operational regulations.**
- 5.48.100 Prohibited conduct.**
- 5.48.110 Change of business.**
- 5.48.120 Inspections.**
- 5.48.130 Violations and penalties.**

5.48.010 Purpose.

The purpose of this chapter is to impose reasonable and necessary requirements and restrictions to protect the health, safety and welfare of the citizens of the city as authorized, by virtue of the state Constitution and Section 51030 et seq., of the Government Code, to regulate massage establishments by imposing reasonable standards relative to the education and experience of massage facility managers and massage therapists and reasonable conditions on the operation of the massage establishment.

5.48.020 Definitions.

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

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

“Home occupation massage” means a massage business conducted by a licensed massage therapist from his or her residence accompanied by a required Home Occupation Permit pursuant to Section 17.28.020(B) of the Moorpark Municipal Code.

“Manager” means the person(s) designated by the owner of the massage establishment to act as the representative and agent of the owner in managing the day-to-day operations with corresponding liabilities and responsibilities. Evidence of management includes, but is not limited to, evidence that the individual has the power to direct or hire and dismiss employees, control hours of operation, acts as a receptionist who collects money for the business, keeps the books to track customers and cash transactions, creates policy or rules, or purchase supplies. A manager may also be an owner.

“Massage” or “massage therapy” means the application of various techniques to the muscular structure and soft tissues of the human body, including but not limited to, any method of pressure or friction against, stroking, kneading, rubbing, tapping, compressing, pounding, vibrating, rocking or stimulating of external surfaces of the body with hands or the aid of any apparatus or other appliances or devices, with or without supplementary aids such as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparations for any consideration or compensation.

“Massage business or establishment” means a business or establishment, including a sole proprietor or independent contractor, that offers massage therapy within the city, whether at a fixed place of business or at a location designated by the patron, and also includes all businesses or establishments where massage therapy is provided as an ancillary service such as clubs, gyms, day spas and professional offices where such massage therapy is not otherwise exempt under this chapter.

“Massage practitioner” means any person who has been certified as a massage practitioner and maintains a current and valid MTO certificate under the Massage Therapy Law.

“Massage therapist” means any person who has been certified as a massage therapist and maintains a current and valid MTO certificate under the Massage Therapy Law.

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

“MTO” means the “Massage Therapy Organization” as defined and created under the Massage Therapy Law. Such organization is currently known as the “California Massage Therapy Council.”

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

“Outcall massage therapy” means the performance of massage therapy at a location designated by the patron and not at a fixed location massage business or establishment.

“Owner” means (1) a sole proprietor of, (2) a general partner of, or (3) each individual person who holds a 20 percent or greater ownership interest in, a massage business or establishment.

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

“Specified criminal offense” means:

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

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

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

5.48.030 Required MTO certificate and massage business license.

A. Massage Businesses and Establishments.

1. No person may engage in, conduct or carry on, or permit to be engaged in, conducted or carried on in any location within the city, a massage business or establishment unless all persons providing massage therapy at or on behalf of the massage business or establishment have a MTO certificate.

2. Each massage business or establishment operating within the city must obtain and maintain a massage business license as provided in Section 5.48.050.

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

5.48.040 Exceptions.

The requirements of this chapter do not apply to:

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

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

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

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

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

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

5.48.050 Massage business license.

A. License Required. The owner of each massage business or establishment, and any massage practitioner or massage therapist that desires to work as an independent contractor at a fixed location massage business or establishment or who desires to provide outcall massage therapy as an independent contractor, must obtain a business license prior to commencing operation or providing any massage therapy and must thereafter maintain a valid business license.

B. License Application. The application for a business license will be made in conjunction with the application for a business registration under Chapter 5.08 of this code. A nonrefundable fee set by city council resolution must accompany the submission of each application. Each applicant for a massage business license must provide the following additional information with the application:

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

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

3. Whether the owner has been convicted of or permitted any specified criminal offense. If an owner does not have a MTO certificate, then the owner must provide a Live Scan background check, not more than one-hundred and twenty days old.

4. The names and addresses of each massage practitioner and massage therapist providing massage therapy at or on behalf of the business or establishment and proof that each such practitioner or therapist has a MTO certificate.

5. Such other reasonable identification and information as the director may require in order to discover the truth of the matters required to be set forth in the application.

C. Issuance or Denial of License.

1. Upon receipt of a complete application, the community development director or his or her designee shall verify the truthfulness of the application to determine whether such license should be approved or denied, and will cause: (a) the inspection of the proposed premises of any fixed location massage business or establishment, and (b) the business license to be issued if all applicable requirements of this chapter and this code are satisfied.

2. If the director finds that any of the applicable requirements of this chapter or this code are not satisfied, including any conviction for or the permitting of a specified criminal offense, or that the applicant has provided materially false information, the application will be denied.

3. The decision of the director denying the business license application may be appealed pursuant to the procedures set forth in Section 5.48.110 of this code.

D. Findings. The community development director or his or her designee must issue the license as requested, unless he or she makes any of the following findings:

1. The applicant, if an individual, or any of the officers or directors of the corporation, if the applicant is a corporation; or a partner, if the applicant is a partnership, or a manager or member if a limited liability company or any person directly engaged or employed in the massage establishment, has:

a. Been convicted of a specified criminal offense,

b. 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 licensee under this chapter, would be grounds for denial, suspension or revocation of the license,

c. Been convicted of an act involving dishonesty, fraud, deceit or moral turpitude or an act of violence, which act or acts are related to the qualifications, functions or duties of the owner or manager within five (5) years from the date of filing the application,

d. Not yet attained eighteen (18) years of age;

2. The applicant has made a false, misleading or fraudulent statement or omission of fact to the city in the license application process; the application does not contain all of the information required by Section 5.48.050;

3. The massage establishment as proposed by the applicant does not comply with all applicable laws, including, but not limited to, health, zoning, fire and safety requirements and standards;"

4. If the application is denied for failure to comply with subsection (3) of this section, the applicant may not reapply for a period of one (1) year from the date the application was denied, at the same location.

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

F. Notification of Changes in Registered Massage Practitioners and Therapists. Each licensee must submit to the Community Development Department the names and applicable MTO certificate of any new massage practitioners or massage therapists not previously included in the list required under subsection (B)(4) above who are hired or retained to provide massage therapy at or on behalf of the business or establishment prior to such person commencing the provision of any massage therapy services. In addition, any discharge or termination of the services of a massage practitioner or massage therapist must be reported to the Community Development Department within five business days of such event.

5.48.060 License renewal.

Licenses for massage establishments and massage practitioners or massage therapists, including massage therapy sole practitioners or independent contractors, shall be renewed on an annual basis provided the licensee continues to meet the requirements as stated in this chapter. The renewal fee for massage establishments and massage practitioners or massage therapists shall be set by resolution of the city council. The licensee shall submit an application for license renewal, which shall update any information that has changed from the original application. Applications for renewal

of a license shall be filed with the community development director or his or her designee at least sixty (60) calendar days before the expiration of the then current license. Temporary licenses will not be issued for renewals. Any licensee allowing his or her license to lapse, or which license expires during a suspension, shall be required to submit a new application and pay the corresponding original application fees.

5.48.070 Suspension or revocation.

A. The community development director or his or her designee may revoke or suspend a massage establishment license or massage practitioner or massage therapist license if any of the following are found that the licensee:

1. Does not possess the qualifications for the license as required by this chapter;
2. Has been convicted of any violation of the provisions of this chapter or any lesser included offense;
3. Has made a material misrepresentation on the license application or renewal; has engaged in conduct or operated the massage establishment or as a massage therapist in a manner which violates any of the provisions of this chapter, any conditions of the license, or any of the laws which would have been grounds for denial of the license to be unfit to hold a license. Further, the licensee shall be responsible for the acts or omissions of its employees and massage therapists that are done in the course and scope of their employment by the licensee.

B. In any proceeding to revoke or suspend a massage practitioner or massage therapist license as the result of alleged violation of any provision of this section or chapter, it shall not be necessary to prove that the licensee had personal knowledge of the provisions of this chapter. The standard of proof shall be a preponderance of the evidence.

C. A hearing shall be scheduled upon not less than ten (10) calendar days' notice to the licensee stating the grounds for proposed revocation or suspension. Notice shall be given by personal service or certified mail to the address shown on the last application or renewal.

D. Notice of the decision shall be given in the same manner as for the hearing. The decision of the community development director or his or her designee may be appealed by the licensee to the city manager in accordance with the provisions of Section 5.48.090.

E. Service shall be deemed complete when personal service is made, when the certified letter is delivered, or when the decision is mailed by first class mail. If the license is suspended or revoked, the license shall be null and void and surrendered.

F. Effect of License Revocation. No person may apply for a license under this chapter within at least one year from the date of revocation of such license.

5.48.080 Appeals.

A. The licensee or applicant, not later than thirty (30) calendar days after service of notice of revocation, suspension, denial of application or renewal or approval with conditions, may file an appeal by filing a written statement of such appeal, including the grounds for appeal and the asserted errors in the decision, with the city clerk's office.

B. The city manager, or his or her designee, must schedule and hold a hearing within thirty (30) calendar days after the filing of the appeal. Notice of the date, time and place of the hearing must be mailed, postage prepaid, at least ten (10) calendar days prior thereto, to the applicant at the address given in the appeal, or if none is provided, to the address set forth in the license application.

C. The city manager, or his or her designee, must render a written decision and must determine, after consideration of all evidence presented, whether a license should be issued, reinstated, suspended, or revoked. The decision of the city manager, or his or her designee, is final. If the denial or revocation is sustained, the licensee or applicant shall be ineligible for a license for one year from the date the denial or revocation becomes final.

D. The following rules shall apply to all appeal hearings:

1. 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.

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

5.48.090 **Massage facilities and operational regulations.**

A. Facility Requirements. Each fixed location massage business or establishment must comply with the following facility requirements:

1. A recognizable and legible sign complying with the requirements of this code posted at the main entrance identifying the location as a massage business or establishment.

2. In addition to the minimum lighting required by the provisions of Title 15 this code, each room or enclosure where massage therapy is to be performed on patrons must be illuminated sufficiently to allow the identification of persons.

3. Closed cabinets must be provided and utilized for the storage of clean linen and towels. Appropriate receptacles must also be provided for the storage of all soiled linen and towels.

4. Adequate dressing, locker and toilet facilities must be provided for patrons. A minimum of one dressing room containing a separate locker for each patron to be served, which locker must be capable of being locked, and a minimum of one toilet and one wash basin must be provided by every massage establishment. Such basin must provide soap or detergent, hot and cold running water, and sanitary towels placed in permanently installed dispensers at all times.

5. Massage table or chair. A massage table or chair must be provided in each massage room and the massage must be performed on this massage table or chair with the exception of "Thai", "Shiatsu" or similar forms of massage therapy, which may be provided on a padded mat on the floor. The massage tables must be positioned so that there is at least three feet from the nearest wall to each side to allow access to the table on all sides. Foam pads at least two inches thick with a minimum width of two feet and a maximum width of four feet may be used on a massage table or floor pad, as provided above, and must be covered with durable, washable plastic or other waterproof material. Beds and floor mattresses are not permitted on the premises.

B. Operational Requirements. Each fixed location massage business or establishment and any massage business or establishment providing outcall massage therapy, must comply with the following operational requirements, as applicable:

1. General Cleaning. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet facilities must be thoroughly cleaned each day the business is in operation. Bathtubs must be thoroughly cleaned after each use. (Not applicable to outcall massage therapy.)

2. Towels and Linen. Clean and sanitary towels, sheets and linens must be provided in sufficient quantity. Towels, sheets and linens must not be used by more than one person. Reuse of such linen is prohibited unless such linen has first been laundered. 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.

3. Patron Garments. Bathrobes, bathing suits or other garments provided for the use of patrons must not be used by more than one person. Reuse of such garments is prohibited unless such garment has first been laundered.

4. Locked Doors. All exterior doors (except a rear entrance for staff only) and interior doors must remain unlocked during business hours, unless there is no massage business or establishment staff available to assure the security of patrons and massage practitioners or therapists who are behind closed doors. (Not applicable to outcall massage therapy.)

5. Service List and Prices. Each massage therapy service offered, the price of the service, and the minimum length of time such service will be performed must be posted in a conspicuous public location in each massage business or establishment. The services must be described in readily understandable terms, all letters and numbers must be not less than one inch in height, and must be in English and such other languages as may be convenient to communicate such services. No services may be performed and no sums may be charged for such services other than those posted. All arrangements for services to be performed must be made in a room in the massage business or establishment that is not used for massage therapy unless no other room exists in the business or establishment. (Not applicable to outcall massage therapy.)

6. Register of Staff. Every massage business or establishment must maintain a register of all staff, including employees, massage therapy sole practitioners, and independent contractors, conducting business at any massage business or

establishment. The register must contain the names of all staff, their home address, age, birth date, gender, height, weight, color of hair, eyes, telephone number, social security number, date of employment or contract, and termination, if any, and the duties of each staff member. All such information must be maintained in the register for a period of two years following such staff member's termination. Such staff register must be available for inspection at the massage business or establishment to representatives of the city during regular business hours.

7. Practitioner and Therapist Attire and Hygiene. To protect patrons from potential health and sanitary hazards, all massage practitioners and therapists must be clean and must perform all services in full, clean outer garments. Clothing must be of non-transparent material and must provide complete covering from mid-thigh to three inches below the collarbone.

8. MTO Certificate. All massage practitioners and therapists must have on his or her person or maintain on the premises their MTO certificate identification card. Such identification card must be provided to city officials upon demand. At least one person who has a MTO certificate must be on the premises at all times while the business or establishment is open for business.

9. Patron Attire. The patron's genitals, pubic area, anus and a female patron's breasts below a point immediately above the top of the areola must be fully draped at all times while any massage practitioner or therapist is in the massage therapy room or cubicle with the patron.

10. Improper Solicitation or Performance of Services. Except to the extent required, in writing, by a state licensed medical practitioner, no massage therapy may be provided to a patron that results in intentional contact, or occasional and repetitive contact with the genitals, anus or areola of any patron. No massage practitioner, therapist, or other person may offer to or perform any act of prostitution as such term is defined in the California Penal Code. No massage practitioner, therapist or other person may, after the commencement of any service for any patron, advise, suggest or otherwise indicate to such patron that any additional service is available or ask or inquire of such patron whether such patron desires any additional service to be performed at that time, except with respect to services that are publicly posted. (This regulation does not preclude the discussion with a patron in the lobby or public area of additional or alternative massage services that are not posted upon completion of the massage.) No massage practitioner or massage therapist may perform any service for any patron that was not ordered by such patron prior to the commencement of performance of any service requested.

11. Records of Treatments. Each massage business or establishment must keep a record of the date and hour of each treatment, the name and address of the patron, and the name of the massage practitioner or therapist administering such treatment. Such records must be available for inspection by city representatives for the purposes of law enforcement and for no other purpose. Identical records must be kept for outcall massage therapy services and, in addition, must describe the address where such services were rendered. The records must be maintained for a period of at least two years.

12. Access. The following persons may be allowed beyond the front lobby, located directly inside the front door entrance during hours of operation: (i) massage practitioners and massage therapists; (ii) patrons, who may be accompanied by no more than one family member; and (iii) visitors of massage practitioners and therapists; provided that such visitor's access is limited to the designated office of the massage business or establishment. Any other persons found beyond the first interior door leading to the inside of the premises including, but not limited to hallways, massage rooms, reception/business offices or lounge area will be a violation of this chapter. Nothing contained in this subsection prohibits any employee from being present in hallways, reception/business offices or other areas necessary or relating to such person's employment duties, nor prohibits any authorized repair, maintenance or service personnel from being present in areas necessary to the performance of such person's services, except that no such employee or service personnel may be permitted in any massage room or cubicle while a patron is present in such room or space.

13. General Prohibition on Massage Therapy in Personal Residences. No massage practitioner or massage therapist may provide massage therapy in his or her personal residence within the city.

14. Licensee Responsibility. Each owner and holder of a massage business license is responsible for the conduct of all employees, agents, independent contractors or other representatives, while on the premises of the massage business or establishment and while providing any massage therapy on behalf of such business or establishment.

5.48.100 Prohibited conduct.

A. An owner, massage practitioner or massage therapist, manager, or any other employee shall not violate the provisions of Sections 647 (a) or 647 (b) of the California Penal Code, or any other state law while providing massage services.

B. An owner, massage practitioner or massage therapist, manager, or any other employee must be fully clothed at all times.

C. An owner, massage practitioner or massage therapist, manager, or any other employee, shall not massage, fondle, or otherwise have intentional contact or manipulation of the genitals, or the breasts of a female patron, and such practices must not be allowed or permitted by the massage establishment licensee.

D. An owner, massage practitioner or massage therapist, manager, or any other employee shall not give a massage unless the breasts of female patrons are covered and the genitals of all patrons are covered, and such practices must not be allowed or permitted by the massage establishment licensee.

E. A massage practitioner or massage therapist providing outcall massage therapy shall not provide such services unless carrying a valid massage therapist license upon his or her person.

F. Notwithstanding subsections C and D, the breasts of female patrons may be touched and/or massaged in situations where the patron provides prior written consent from a state-licensed medical practitioner and/or a written consent from the patron to undergo massage therapy procedures for conditions such as, adjuvant therapy in post-operative breast cancer care, manual lymph drainage therapy, and sub-mammary

myoskeletal dysfunction, or other medical condition. Genitalia of female patrons may be touched and/or massaged in situations where the patron provides prior written consent from a state-licensed medical practitioner to undergo massage therapy procedures for a medical condition.

5.48.110 Change of business.

A. No massage establishment license may be sold, transferred or assigned by a licensee, or by operation of law, to any other person or persons. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such license and such license shall thereafter be null and void. A massage establishment license issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of a license, or any stock authorized but not issued at the time of the granting of a license is thereafter issued or sold, transferred or assigned. Notwithstanding the other provisions of this subsection, if the massage establishment is co-owned and one or more of the owners die, the remaining owners can acquire the ownership interest of the deceased owner(s) without effecting a surrender or termination of such license, and in such case, the license, upon notification of the community development director, shall be placed in the name of the surviving owner(s).

B. A person(s) purchasing an existing massage establishment business licensed under the ordinance codified in this chapter must complete the licensing process before completing the purchase of the business. To avoid a disruption in business services, it is the responsibility of the purchaser to apply for the license in a timely manner such that the approval of the license may be prior to or concurrent with the completion of the business sale.

C. No massage establishment may be operated under any name or allow business to be conducted under any designation or business name not specified in the application.

5.48.120 Inspections.

As provided by law, the investigating and enforcing officials of governmental agencies shall have the right to periodically enter the premises during regular business hours for the purpose of making reasonable inspections, to observe and enforce compliance with applicable laws and ordinances; building, fire, electrical, plumbing or health regulations, providing that such inspections do not unreasonably disturb the business or unreasonably interfere with delivery of service to clients.

5.48.130 Violations and penalties.

A. Any person violating any section of this chapter shall be 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 hereby declared to be, unlawful and a public nuisance. The city attorney may, in addition to, or in-lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal, or enjoinder thereof, in the manner provided by law. The city

attorney shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief, as shall abate or remove such massage establishment and restrain and enjoin any person from operating, conducting or maintaining a massage establishment contrary to the provisions of this chapter.

EXHIBIT B

17.08.010 Application of definitions.

The following definition is removed:

~~“Personal services” means enterprises serving individual necessities, such as barber shops, beauty salons and spas, clothing rental, coin-operated laundromats, funeral homes, marriage bureaus, massage services by masseurs/masseuses, personal laundry and dry cleaning establishments, photographic studios, tattoo parlors and travel agencies.~~

The following definition is added:

“Personal Service Establishment” means an establishment primarily engaged in providing individual services generally related to personal needs such as barber shops, beauty salons and spas, personal laundry and dry cleaning establishments, pet grooming, and photography studios. These uses may also include accessory retail sales of products related to the services provided.”

EXHIBIT C

Table 17.20.060

PERMITTED USES IN COMMERCIAL AND INDUSTRIAL ZONES

[Blank] = Not permitted
 AP = Administrative Permit
 CUP = Conditional Use Permit
 NZC = No Zoning Clearance required
 TUP = Temporary Use Permit
 ZC = Permitted by Zoning Clearance

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
A. Retail and Service Uses							
1. Adult businesses when in compliance with Sections 17.24.040(N), 17.78.050 and Chapter 5.18					ZC	ZC	
2. Alcoholic beverage sales for off-site consumption when in conjunction with another city-approved retail or service use other than automobile service station or liquor store							
a. Beer and/or wine (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)		CUP	AP*	AP*	AP*	AP*	
b. Beer, wine and other alcoholic beverages		CUP	CUP	CUP	CUP	CUP	
3. Automobile/light truck/motorcycle							
a. Brakes, oil changes, tires and shock sales and installation, tune-ups and other light service and repair (with or without hydraulic lifts) (*if		CUP	AP*		AP*	AP*	

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
within one hundred (100) feet of a residentially zoned property a conditional use permit is required)							
b. Car washes, self-service or automatic with or without automotive services stations			CUP			CUP	
c. Engine rebuilding, transmission repair, steam cleaning, auto body, painting					CUP	CUP	
d. Parts and supplies		ZC	ZC		ZC	ZC	
e. Rental			AP		AP	AP	
f. Sales, with or without service and parts			CUP		CUP	CUP	
g. Service stations with or without mini-marts and with or without beer and wine sales for off-site consumption			CUP			CUP	
4. Body piercing and/or tattoo			CUP				
5. Building supplies (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)			AP*	CUP		CUP	
6. Hay and feed sales				CUP		CUP	
7. Hotels, motels and bed-and-breakfast inns when in compliance with Chapter 5.44	CUP	CUP	CUP	CUP			
8. Kennels and catteries					CUP	CUP	
9. Liquor stores (when located no closer than one thousand (1,000) feet of any other liquor store or public or private school)		CUP	CUP	CUP			
10. Medical marijuana (cannabis and all parts of that plant) dispensaries including any site, facility, location, use, cooperative or business which distributes, sells, exchanges, processes, delivers, gives away, or cultivates marijuana for medical purposes to qualified patients, health care providers, patients' primary							

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
caregivers, or physicians pursuant to Proposition 215, Health and Safety Code Section 11362.5 <i>et seq.</i> , or any state regulations adopted in furtherance thereof.							
11. Nurseries (retail) with or without container grown plants when all equipment and supplies kept in an enclosed area			AP				
12. Nurseries (wholesale and/or retail) with or without container grown plants when all equipment and supplies kept in an enclosed area						AP	
13. Pawnshops when in compliance with Chapter 5.32			AP				
14. Pest control services (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)					AP*	AP*	
15. Private post offices, parcel services, copy centers	ZC	ZC	ZC	ZC			
16. Psychics, fortunetelling, and spiritual advisors when in compliance with Title 5 of the Moorpark Municipal Code			CUP				
17. Recreational vehicle storage yards when not located on parcels adjacent to arterial roads or freeways as shown on the Moorpark Circulation Element Highway Network Map and with or without a caretaker dwelling						CUP	
18. Recycling centers			CUP		CUP	CUP	
19. Recycling drop-off bins when located in an area determined by the community development director not to be in conflict with parking, vehicle or pedestrian circulation	ZC	ZC	ZC	ZC	ZC	ZC	

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
20. Rental and leasing of large equipment with or without outdoor storage and repair (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)					AP*	AP*	
21. Retail shops and personal service establishments, except as otherwise indicated in this table, including, but not limited to antiques, art and craft dealers and supplies, bakeries, barbers, beauty salons, bicycle sales/service, books and stationery, camera/photo stores including on-site processing, carpet and flooring sales/cleaning/installation, clothing and fabric stores, computer sales and service, department and variety stores, dry cleaners, electronic equipment sales and service, florists, food markets, gift and novelty stores, hardware and tool stores, home and office furniture and equipment sales, home appliance sales and service, housewares sales, jewelry stores, key and locksmiths, music stores (including recorded music and musical instrument sales, service, and lessons), newsstands, paint stores, party supply sales and rental, pet grooming, pet sales and supplies, pharmacies, photography studios, pool and spa sales and supplies, shoe stores, sporting goods and equestrian supplies, small equipment rental (no outdoor storage), toy and hobby stores, video/DVD/CD sales and rental, wireless sales/service, and uses which the community development director determines to be similar when in compliance with Section 17.20.030		ZC	ZC	ZC			

Zones	C-O	C-1	CPD C-2 AP*	C-OT	M-1 AP	M-2 AP	I
22. Retail sales combined with limited distribution and/or warehousing not exceeding forty percent (40%) of gross floor area of the building in which it is located (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)							
23. Retail sales in the M-1 and M-2 zone limited to a maximum of twenty percent (20%) of the gross floor area of the building in which it is located. In an industrial complex the twenty percent (20%) shall be computed on the basis of the cumulative total floor area of the industrial planned development (IPD)							
24. Retail sales (temporary) in the M-1 and M-2 zones. Issuance of a temporary use permit shall take the place of a zoning clearance.					TUP	TUP	
25. Thrift stores, secondhand shops consignment stores when in compliance with Chapter 5.32			AP	AP			
26. Tobacco stores, including but not limited to cigarette, cigar, and smoking paraphernalia shops			CUP				
B. Eating and drinking places							
1. Bars with or without entertainment including, but not limited to cocktail lounges, cabarets			CUP	CUP	CUP	CUP	
2. Breweries, micro breweries, wineries/tasting rooms with or without restaurant and with or without outdoor seating and with or without entertainment			CUP	CUP	CUP	CUP	

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
3. Restaurants and similar establishments engaged primarily in the retail sale of prepared food for on-site or off-site consumption in accordance with the restrictions below:							
a. With or without entertainment and with or without on-site consumption of beer and wine and other alcoholic beverages and with or without outdoor seating (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)		AP*	AP*	AP*	AP*	AP*	
b. With drive-in or drive-through facilities (sale of alcoholic beverages from the drive-in or drive-through facilities is prohibited) with or without outdoor seating		CUP	CUP	CUP	CUP	CUP	
C. Office and Professional Uses							
1. Banks and other financial institutions	ZC	ZC	ZC	ZC	AP	AP	
2. Laboratories: research and scientific	AP				AP	AP	
3. Professional and administrative offices, including, but not limited to: accounting, advertising agencies, chiropractic, collection services; dental, direct mail marketing companies, employment agencies, engineering services insurance, investment, massage businesses or establishments in compliance with Chapter 5.48, medical, optical and related health services; planning services, real estate services; secretarial services, travel agencies, and uses which the community development director determines to be similar when in compliance with	ZC	ZC	ZC	ZC	ZC	ZC	

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
Section 17.20.030							
4. Veterinary offices and animal hospitals							
a. Without boarding (keeping of animals indoors and on-site for medical purposes shall not be considered boarding)	AP	AP	AP	AP	AP	AP	
b. With boarding indoors or outdoors			CUP		CUP	CUP	
D. Manufacturing, Assembly, Distribution, and Warehousing Uses							
1. Cement, concrete and plaster, and product fabrication						CUP	
2. Distribution and transportation facilities					CUP	CUP	
3. Heavy machinery repair, including trucks, tractors and buses						CUP	
4. Manufacturing and assembly including, but not limited to appliances, cabinets, cleaners, clothing, computers, cosmetics, detergents, electronics, furniture, leather products, machinery, medical and scientific instruments, paper, perfumes, pharmaceuticals, photographic and optical goods, plastic products, signs and advertising displays, soap, textiles and other uses which the community development director determines to be similar when in compliance with Section 17.20.030 (*if within one hundred (100) feet of a residentially zoned property an administrative permit is required)					ZC*	ZC*	

Zones	C-O	C-1	CPD C-2 CUP	C-OT	M-1	M-2	I
5. Outdoor storage when in conjunction with a city approved use and when all storage is screened by an eight (8) foot high masonry wall architecturally matched to the structure. (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)						AP*	
6. Self-storage or mini-storage when not located on parcels adjacent to arterial roads or freeways as shown on the Moorpark Circulation Element Highway Network Map and with or without a caretaker dwelling					CUP	CUP	
7. Warehousing					AP	AP	
8. Welding					AP	AP	
E. Public and Semi-Public Uses							
1. Amusement and recreational facilities as defined in Chapter 17.08							
a. Arcades (video and computer) and cyber cafés	CUP	CUP	CUP	CUP			
b. Health club/gymnasium/fitness center/spa (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)	AP*	AP*	AP*	AP*	AP*		
2. Care facilities, including adult day care facilities, Alzheimer's day care facilities, congregate living health facilities, child day care centers, community treatment facilities, foster family and adoption agencies, hospices, long-term health care	CUP	CUP	CUP				

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
facilities, residential care facilities for the elderly, residential care facilities for persons with chronic life-threatening illness, skilled nursing and intermediate care facilities, social rehabilitation facilities, therapeutic day services facilities, transitional housing placement facilities, and transitional shelter care facilities as defined in Division 2 of the Health and Safety Code							
3. Clubhouses, social clubs, service clubs with or without alcohol					CUP		CUP
4. Energy production from renewable resources						CUP	CUP
5. Governmental uses including, but not limited to city offices, community rooms, fire stations, human service centers, libraries, police stations, public utility facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP
6. Hospitals including urgent care (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)	AP*		AP*		AP*		AP*
7. Places of religious worship					CUP		CUP
8. Private education facilities including, but not limited to colleges and universities, elementary, middle and high schools							CUP
9. Private training facilities including, but not limited to professional and vocational schools, art and craft schools, music schools not part of a music store, and driver training	AP*	AP*	AP*	AP*	AP*		

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
schools (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)							
10. Recreational facilities (private) with/without food services, including but not limited to bicycle and skate parks, golf courses, gymnasiums, fitness, health spas, martial arts, racquetball, yoga. Bicycles and skate parks shall be in compliance with Chapter 17.28 (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)	AP*	AP*	AP*	AP*	AP*		CUP
11. Utility structures (electrical boxes, transformers and valve apparatus that have no covered floor area and are attached to the ground by poles, columns or pedestals shall not require a zone clearance)	AP	AP	AP	AP	AP	AP	AP
12. Wireless communications facilities, in accordance with the requirements of Chapter 17.42							
a. Major wireless communications facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP
b. Minor wireless communications facilities	AP	AP	AP	AP	AP	AP	AP
c. Collocation wireless communications facilities (consistent with definition of "collocation facility" in Section 17.42.020)	ZC	ZC	ZC	ZC	ZC	ZC	ZC
F. Accessory and Miscellaneous Uses							
1. Outdoor sales	CUP	CUP	CUP	CUP	CUP	CUP	

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
2. Retail shops and services as listed in Table 17.20.060(A)(21) when the uses are determined by the community development director to be ancillary to office use of the property	AP						
3. Motion picture and television production and related activities and structures (activities of a maximum of forty-two (42) days in any one hundred eighty (180) day period are considered temporary and shall comply with the requirements of Chapter 17.28 and Title 5 of the Moorpark Municipal Code	TUP	TUP	TUP	TUP	TUP	TUP	TUP
4. Temporary uses including, but not limited to carnivals, Christmas tree sales, circuses, festivals, sidewalk sales, special events, outdoor sales, when in compliance with Chapter 17.44. Issuance of a temporary use permit shall take the place of a zoning clearance. Temporary uses lasting more than one hundred eighty (180) days require an AP.	TUP	TUP	TUP	TUP	TUP	TUP	TUP