



## City Council Staff Report

DATE: January 21, 2015

LEGISLATIVE

SUBJECT: AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING AND RESTATING CHAPTER 5.34 OF THE PALM SPRINGS MUNICIPAL CODE RELATING TO MASSAGE ESTABLISHMENTS

FROM: David Ready, City Manager

BY: Geoff Kiehl, Director of Finance; Douglas Holland, City Attorney

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### SUMMARY

The proposed Ordinance amends and restates Chapter 5.34 of the Palm Springs Municipal Code (Massage Establishments) to comport with recent changes in state law, which authorize local regulation of massage establishments, subject to specific limitations.

### RECOMMENDATION:

1. Waive reading of the Ordinance text and introduce by title only.
2. INTRODUCE ORDINANCE NO.\_\_\_\_, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING AND RESTATING CHAPTER 5.34 OF THE PALM SPRINGS MUNICIPAL CODE RELATING TO MASSAGE ESTABLISHMENTS."

### STAFF ANALYSIS:

Assembly Bill 1147 (the "Massage Therapy Act"), effective January 1, 2015, restores local control over massage establishments, allowing local governments to use their regulatory authority, as in the case with all other businesses, to ensure the public's safety, reduce human trafficking, and enforce local standards for the operation of the business of massage therapy. The Massage Therapy Act, however, expressly prohibits local governments from: (1) defining massage establishments as adult entertainment; (2) requiring a massage establishment to have windows or walls that do not extend from floor to ceiling; (3) imposing client draping requirements beyond the covering of genitalia and female breasts; (4) prohibiting a massage establishment from locking its external

doors if the massage establishment is a business entity owned by one individual with one or no employees; (5) requiring a massage establishment to post any notice that may be viewed by clients that contains explicit language describing sexual acts; (6) requiring a massage therapist licensed by the California Massage Therapy Council ("CAMTC") to take any test, medical exam, or background check beyond what is required by the statute; (7) requiring a CAMTC-certified massage therapist (other than a sole business owner) to obtain any other local license, permit, certificate, or other authorization to provide massage for compensation; (8) imposing a dress code requirement in excess of the requirements imposed by the statute; or (9) prohibiting a CAMTC-certified massage therapist from performing massage on gluteal muscles, or other massage techniques recognized by CAMTC, or other restrictions on professional practice beyond those included in the statute.


Chapter 5.34 (Massage Establishments) of the Palm Springs Municipal Code was enacted by Ordinance No. 1234 in 1985, and most recently amended by Ordinance No. 1432 in 1993. The proposed Ordinance amends and restates Chapter 5.34 of the Palm Springs Municipal Code, to comport with the Massage Therapy Act. The Ordinance requires all persons performing massage for compensation in the City to be CAMTC-certified, and eliminates the City's local massagist permit process. Owners and operators of massage establishments are required to maintain a City massage establishment licenses and must adhere to the standards of conduct and conditions of operation set forth in the proposed Ordinance.


ENVIRONMENTAL ASSESSMENT:

This modification to the municipal code does not constitute a "project" as defined by CEQA, and is an action of government that will not result in direct or indirect physical changes in the environment.

FISCAL IMPACT:

No fiscal impact.

  
\_\_\_\_\_  
Geoff Kiehl, Director of Finance

  
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David Ready, City Manager

  
\_\_\_\_\_  
Douglas C. Holland  
City Attorney

Attachment: Ordinance

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF PALM SPRINGS,  
CALIFORNIA, AMENDING AND RESTATING CHAPTER  
5.34 OF THE PALM SPRINGS MUNICIPAL CODE  
RELATING TO MASSAGE ESTABLISHMENTS

**City Attorney Summary**

*This ordinance relates to the City's regulation of massage establishments. Assembly Bill 1147 (the "Massage Therapy Act"), effective January 1, 2015, restores local control over massage establishments, allowing local governments to use their regulatory authority, as in the case with other businesses, to ensure the public's safety, reduce human trafficking, and enforce local standards for the operation of the business of massage therapy, subject to specific limitations. This ordinance updates Chapter 5.34 of the Palm Springs Municipal Code in compliance with the Massage Therapy Act.*

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, FINDS:

A. The permit requirements and restrictions imposed by this Ordinance are reasonably necessary to protect the health, safety and welfare of the citizens of the City, while recognizing massage as a legitimate business interest that provides benefits to its patrons in a therapeutic setting.

B. The City is authorized, by virtue of the State Constitution, Sections 51030 et seq. of the Government Code, Sections 460, 4600 through 4620, and Section 16000 of the Business and Professions Code to regulate massage establishments.

C. There is a significant risk of injury to massage clients by improperly trained and/or educated massage therapists, and this Ordinance provides reasonable safeguards against injury and economic loss.

D. In order to comply with the requirements of Assembly Bill 1147, this Ordinance removes existing provisions from the Palm Springs Municipal Code regarding the issuance of local massagists permits, while requiring all persons practicing massage for compensation within the City to be certified by the California Massage Therapy Council.

E. There is an opportunity for acts of prostitution, lewdness, and other unlawful sexual activity, as well as problems relating to human trafficking, to occur in massage establishments. Courts have long recognized that massage establishments are often brothels in disguise. The establishment of reasonable standards for the

issuance of permits and restrictions on operations would serve to reduce the risk of illegal activity and would thereby benefit the public health.

F. The regulations and restrictions contained in this Ordinance are intended to discourage massage establishments from degenerating into houses of prostitution, to protect the public from improperly trained massage therapists, and to protect against human trafficking; the means utilized in this Ordinance bear a reasonable and rational relationship to the goals sought to be achieved within the confines allowed by state law.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ORDAINS:

SECTION 1. Chapter 5.34 (Massage Establishments) of the Palm Springs Municipal Code is amended and restated in its entirety to read:

### **Chapter 5.34**

#### **MESSAGE ESTABLISHMENTS**

**Sections:**

<b>5.34.010</b>	<b>Citation.</b>
<b>5.34.020</b>	<b>Purpose and Intent.</b>
<b>5.34.030</b>	<b>Definitions.</b>
<b>5.34.040</b>	<b>Permit Requirements.</b>
<b>5.34.050</b>	<b>Exemptions.</b>
<b>5.34.060</b>	<b>Application for Massage Establishment Permit.</b>
<b>5.34.070</b>	<b>Issuance of Massage Establishment Permit.</b>
<b>5.34.080</b>	<b>Approval or Denial of Application.</b>
<b>5.34.090</b>	<b>Multiple Massage Establishments.</b>
<b>5.34.100</b>	<b>Posting of Permit.</b>
<b>5.34.110</b>	<b>Register of Employees.</b>
<b>5.34.120</b>	<b>Revocation or Suspension of Permit.</b>
<b>5.34.130</b>	<b>Facilities Necessary.</b>
<b>5.34.140</b>	<b>Operating requirements.</b>
<b>5.34.150</b>	<b>Alcoholic Beverages Prohibited.</b>
<b>5.34.160</b>	<b>Hours.</b>
<b>5.34.170</b>	<b>Inspection Required.</b>
<b>5.34.180</b>	<b>Unlawful Acts.</b>
<b>5.34.190</b>	<b>Sale or Transfer or Change of Location.</b>
<b>5.34.200</b>	<b>Name and Place of Business.</b>
<b>5.34.210</b>	<b>Transfer of Permit.</b>
<b>5.34.220</b>	<b>Violation and Penalty.</b>
<b>5.34.230</b>	<b>Violation a Nuisance.</b>

**5.34.010 Citation.**

This Chapter may be cited as the Palm Springs Massage Ordinance.

**5.34.020 Purpose and Intent.**

It is the purpose and intent of this Chapter to provide for the orderly regulation of massage establishments in the City by establishing certain minimum standards for the conduct of this type of business which will protect the public health and welfare of the citizens of the City.

**5.34.030 Definitions.**

For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "City Manager" means the City Manager of the City or the designee or designees of the City Manager.

(1) "Employee" means any person who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or its patrons. For the purpose of this Chapter, the term "employee" includes independent contractors.

(2) "California Massage Therapy Council" or "CAMTC" means the non-profit organization formed pursuant to California Business and Professions Code Chapter 10.5 commencing with section 4600, as may be amended from time to time.

(3) "Certified massage therapist" means any individual certified by the California Massage Therapy Council as either a Certified Massage Practitioner or as a Certified Massage Therapist pursuant to California Business and Professions Code section 4600 et seq., as may be amended from time to time.

(4) "Health Department" means the Department of Public Health of the County of Riverside.

(5) "Permitee" means the person to whom a massage establishment permit has been issued to own or operate a massage establishment as defined in this section.

(6) "Massage" means any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus or appliances with or without such

supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or any gratuity therefor.

(7) "Massage establishment" means any business, enterprise or establishment having a source of income or compensation derived from the practice of massage as defined in subsection (6), and which has a fixed place of business where any person, firm, association, partnership, corporation, corporation or combination of individuals engages in or carries on any of the activities as defined in subsection (6).

(8) "Massagist" means any person who, for any consideration whatsoever, engages in the practice of massage as defined in subsection (6).

(9) "Patron" means any person who receives a massage on the premises of a massage establishment under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

(10) "Person" means any individual, partnership, firm, association, joint stock company, corporation, limited liability company, or combination of individuals of whatever form or character.

#### **5.34.040 Permit Requirements.**

(a) **Massage Establishment Permit Required.**

No person shall engage in or carry out the business of massage unless he or she has a valid massage establishment permit issued by the City Manager pursuant to the provisions of this Chapter for each and every separate office or place of business conducted by such person.

(b) **California Massage Therapy Council Certificate Required.**

(1) No person shall practice massage in exchange for money or any other consideration or gratuity within the City unless that individual is a certified massage therapist as defined in Section 5.34.030, with a valid and current CAMTC-issued certificate.

(2) No person shall employ as a massagist any person unless said employee is a certified massage therapist as defined in Section 5.34.030, with a valid and current CAMTC-issued certificate.

(c) **Business License Required.**

In addition to the requirements of subsections (a) and (b) above, no person shall engage in or carry out the business of massage without first having procured a business license pursuant to the requirements of Palm Springs Municipal Code Chapters 3.40 through 3.96 inclusive and having paid the tax hereunder.

#### **5.34.050 Exemptions.**

This Chapter shall not apply to the following individuals while engaged in the personal performance of the duties of their respective professions:

- (1) Physicians, surgeons, chiropractors, osteopaths, acupuncturists, or physical therapists who are duly licensed to practice their respective professions in the state of California;
- (2) Nurses who are registered under the laws of the state of California;
- (3) Barbers, beauticians, manicurists, and pedicurists who are duly licensed under the laws of the state of California except that this exemption shall apply solely to the massaging of the neck, face, scalp, hair, hands or feet of the customer or client for cosmetic or beautifying purposes.

#### **5.34.060 Application for Massage Establishment Permit.**

Every applicant for a permit to maintain, operate, or conduct a massage establishment shall file an application under oath with the City Manager upon a form provided by said collector and pay a non-refundable annual permit fee in such amount, as established by resolution of the City Council. Permittees who have already paid the permit fee for the current period shall not be required to pay an additional fee hereunder. The application, once accepted, shall be referred to the chief of police for investigation. Copies of the application shall within five days also be referred to the department of building and safety, the fire department, the health department, and the planning department. The departments shall within thirty days inspect the premises proposed to be operated as a massage establishment and shall make written verification to the City Manager concerning compliance with the codes of the City that they administer. The application shall further be referred to the police department for investigation of the applicant's character and qualifications. Each application shall contain the following information:

- (1) A definition of service to be provided;
- (2) The location, mailing address and all telephone numbers where the business is to be conducted;

(3) The name and residence address of each applicant. Hereinafter all provisions which refer to applicant include an applicant which may be a corporation, partnership or limited liability company;

(A) If applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation and of each stockholder owning more than ten percent of the stock of the corporation, and the address of the corporation itself, if different from the address of the massage establishment,

(B) If applicant is a partnership, the names and addresses of each of the partners including limited partners, and the address of the partnership itself, if different from the address of the massage establishment,

(C) If applicant is a limited liability company, the names and addresses of each of the members of said company, and the address of the company itself, if different from the address of the massage establishment;

(4) The two previous addresses immediately prior to the present address of the applicant;

(5) Proof that the applicant is at least eighteen years of age;

(6) Individual or partnership applicant's height, weight, color of eyes and hair, and sex;

(7) Copy of identification such as driver's license and social security card;

(8) One portrait photograph of the applicant at least two inches by two inches and a complete set of applicant's fingerprints which shall be taken by the chief of police or his or her agent. If the applicant is a corporation, one portrait photograph at least two inches by two inches of all officers and managing agents of said corporation and a complete set of the same officers' and agents' fingerprints which shall be taken by the chief of police or his or her agent. If the applicant is a partnership, one front-face portrait photograph at least two inches by two inches in size of each partner, including a limited partner in said partnership, and a complete set of each partner's or limited partner's fingerprints which shall be taken by the chief of police or his or her agents. If the applicant is a limited liability company, one front-face portrait photograph at least two inches by two inches in size of each member of said company and a complete set of the same members' fingerprints which shall be taken by the chief of police or his or her agent;

(9) Business, occupation, or employment of the applicant for the three years immediately preceding the date of applicant;



(10) The massage or similar business permit history of the applicant; whether such person, in previously operating in this or another city or state has had a business license or permit revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;

(11) All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted, and full statement of the disposition of all such actions;

(12) The name and address of each massagist who is or will be employed in said establishment;

(13) Applicant must furnish copies of a valid and current CAMTC-issued certificate and identification card for each massagist who is or will be employed in said establishment;

(14) The name and address of any massage business or other establishment owned or operated by any person whose name is required to be given in subsection (3) wherein the business or profession of massage is carried on;

(15) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant;

(16) Authorization for the City Manager, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for permit;

(A) The City Manager may request the department of health to conduct some or all of the inspections or investigations required herein. The department of health is authorized to bill and collect from the applicant reasonable fees for such services and the applicant shall show evidence that such fees have been paid before a permit is issued hereunder;

(17) Such other identification and information necessary to discover the truth of the matters herein specified as required to be set forth in the application;

(18) The names, current addresses and written statements of at least three bona fide permanent residents of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the City, then the county, then the state of California and lastly from the rest of the United States. These references must be persons other than relatives and business associates.

Upon the completion of the above provided form and the furnishing of all foregoing information the City Manager shall accept the application for the necessary

investigations. The holder of a massage establishment permit shall notify the City Manager of each change in any of the data required to be furnished by this section within ten days after such change occurs.

#### **5.34.070 Issuance of a Massage Establishment Permit.**

The City Manager shall issue a massage establishment permit if all requirements for a massage establishment permit described in this Chapter are met unless it finds:

- (1) The correct permit fee has not been tendered to the City, and, in the case of a check, or bank draft, honored with payment upon presentation, or that fees pursuant to Sections 5.34.060(16) have not been paid;
- (2) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the City's building, zoning, and health regulations and the health department's regulations and standards relating to the practice of massage and operation of massage establishments;
- (3) The applicant, if an individual; or any of the stockholders holding more than ten percent of the stock of the corporation; or any of the partners; or any of the members; or the holder of any lien, of any nature, upon the business and/or the equipment used therein; and the manager or other person principally in charge of the operation of the business, have been convicted of any of the following offenses or convicted of an offense without the state of California that would have constituted any of the following offenses if committed within the state of California:
  - (A) An offense involving the use of force and violence upon the person of another that amounts to a felony,
  - (B) An offense involving sexual misconduct,
  - (C) An offense involving narcotics, dangerous drugs or dangerous weapons that amounts to a felony.

The City Manager may issue a permit to any person convicted of any of the crimes described in (A) through (C) of this subsection if the City Manager finds that such conviction occurred at least five years prior to the date of the application and the applicant has had no subsequent felony convictions of any nature and no subsequent misdemeanor convictions for any crime mentioned in this subsection (3);

- (4) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the permit application or in any document required by the City Manager in conjunction therewith;

(5) The applicant has had a massage establishment or other similar permit denied, revoked, or suspended by the City Manager or any other state or local agency within five years prior to the date of the application;

(6) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or any of the members, if the applicant is a limited liability company; and the manager or person principally in charge of the operation of the business, is not over the age of eighteen years.

#### **5.34.080 Approval or Denial of Application.**

The City Manager shall act to approve or deny an application for a massage establishment permit under this Chapter within a reasonable period of time and in no event shall the City Manager act to approve or deny said permit later than ninety days from the date that said application was accepted by the City Manager. Every massage establishment permit issued pursuant to this Chapter will terminate at the expiration of one year from the date of its issuance unless sooner suspended or revoked.

#### **5.34.090 Multiple Massage Establishments.**

Should any massage business have more than one location where the business of massage is pursued, then a massage establishment permit, stating both the address of the principal place of business, and of the other location(s) shall be issued by the City Manager upon the tender of the permit fee. Permits issued for other locations shall terminate on the same date as that of the principal place of business, regardless of the date of issuance.

#### **5.34.100 Posting of Permit.**

(a) Every massagist shall post his or her CAMTC-issued certificate in his or her work area.

(b) The permittee shall ensure that the massage establishment permit issued by the City Manager pursuant to the provisions of this Chapter for the massage establishment is conspicuously displayed in a public place in the lobby of the massage establishment.

#### **5.34.110 Register of Employees.**

The permittee or person designated by the permittee of a massage establishment shall maintain a register of all persons employed at any time as massagists and copies of their current and valid CAMTC-issued certificates and identification cards. Such register shall be available at the massage establishment to representatives of the City Manager during regular business hours.

### **5.34.120 Revocation or Suspension of Permit.**

Any massage establishment permit may be revoked or suspended by the City Manager after notice and a hearing, for good cause, or in any case where any of the provisions of this Chapter are violated or where any employee of the permittee, including a massagist, is engaged in any conduct which violates any of the state or local laws or ordinances at permittee's place of business and the permittee was aware, or with due diligence would have been aware of said violation. Such permit may also be revoked or suspended by the City Manager after notice and hearing, upon the recommendations of the director of the health department that such business is being managed, conducted or maintained without regard to proper sanitation and hygiene. Such revocation proceedings shall be conducted as prescribed by Section 5.72.030 of the Palm Springs Municipal Code.

### **5.34.130 Facilities Necessary.**

No massage establishment permit shall be issued until the City Manager has caused an inspection to be made of the premises and it is found that the establishment complies with each of the following minimum requirements:

- (1) Construction of rooms used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproofed materials and shall be installed in accordance with the City's building code. Plumbing fixtures shall be installed in accordance with the City's plumbing code;
  - (A) Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the City's Building Official;
  - (B) Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sewer. (Exception: Dry heat rooms with wooden floors need not be provided with pitched floors and floor drains);
  - (C) A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning;
- (2) The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages. Such non-disposable instruments and materials shall be disinfected after use on each patron;
- (3) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linen, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas;

(4) Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each fifteen or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein;

(5) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels;

(6) All electrical equipment shall be installed in accordance with the requirements of the Palm Springs building code.

#### **5.34.140 Operating Requirements.**

(a) Every portion of the massage establishment, and all appliances and apparatus, shall be kept clean and operated in a sanitary condition.

(b) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

(c) A separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.

(d) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.

(e) No massage establishment granted a massage establishment permit under the provisions of this Chapter shall place, publish, or distribute or cause to be placed, published or distributed any advertisement, picture, or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any professional massage services.

#### **5.34.150 Alcoholic Beverages Prohibited.**

No person shall sell, give, dispense, provide or keep, or cause to be sold, given, dispensed, provided or kept, any alcoholic beverage on the premises of any massage establishment.

### **5.34.160 Hours.**

No massage business shall be kept open for any purpose between the hours of ten p.m. and eight a.m.

### **5.34.1700 Inspection Required.**

The chief of police or his or her authorized representatives shall from time to time make inspection of each massage establishment for the purposes of determining that the provisions of this Chapter are fully complied with. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or hinder such officer in any manner. Health department representatives are deemed authorized representatives of the chief of police.

### **5.34.180 Unlawful Acts.**

(a) It shall be unlawful for any massagist or employee, in a massage establishment, to expose his or her sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any massagist or employee, in a massage establishment, to expose the sexual or genital parts, or any portions thereof, of any other person. Sexual or genital parts shall include the genitals, pubic area, anus, or perineum of any person or, except as may be permitted by subsection (b)(4) of this section, female breasts.

(b) It shall be unlawful for any massagist or employee, in a massage establishment, to engage in any form of unprofessional conduct as defined by California Business and Professions Code section 4609(a)(1), as may be amended from time to time, including without limitation:

- (1) Engaging in any form of sexual activity on the premises of a massage establishment;
- (2) Engaging in sexual activity while providing massage services for compensation;
- (3) Providing massage of the genitals or anal region;
- (4) Providing massage of female breasts without the written consent of the person receiving the massage and a referral from a licensed California health care provider.

(c) It shall be unlawful for any massagist or employee, in a massage establishment, while visible to patrons, or while engaged in the practice of massage, to dress in attire that is transparent, see-through, or substantially exposes one's undergarments, or in swim attire, unless providing a water-based massage modality approved by CAMTC, or dress in a manner that exposes one's breasts, buttocks, or genitals, or otherwise dress in a manner that constitutes a violation of Penal Code section 314.

(d) It shall be unlawful for any person owning, operating or managing a massage establishment, knowingly to cause, allow or permit in or about such massage establishment, any agent, employee, or any other person under his or her control or supervision to perform such acts or engage in conduct prohibited in subsections (a), (b) or (c) of this section.

(e) It shall be unlawful for any massage service to be carried on within any cubicle, room, booth, or any area within a massage establishment which is fitted with a door capable of being locked. Toilets and cubicles used solely for the application of liquid and vapor baths shall be clearly marked as to purpose on the exterior door or curtain of said cubicle, room or booth. Nothing contained herein shall be construed to eliminate other requirements of statute, ordinance or municipal code concerning the maintenance of premises, nor to preclude authorized inspection thereof, whenever such inspection is deemed necessary by the police or health departments.

#### **5.34.190 Sale or Transfer or Change of Location.**

Upon sale, transfer, or relocation of a massage establishment, the permit therefore shall be null and void unless reapproved as provided in Section 5.34.070; provided, however, that upon the death or incapacity of the permittee or any co-permittee of the massage establishment, any heir or devisee of a deceased permittee, or any guardian of an heir or devisee of a deceased permittee, may continue the business of the massage establishment for a reasonable period of time not to exceed sixty (60) days to allow for an orderly transfer of the permit.

#### **5.34.200 Name and Place of Business.**

No person granted a massage establishment permit pursuant to this Chapter shall operate the massage establishment under a name not specified in his or her permit, nor shall such person conduct business under any designation or location not specified in his or her permit.

#### **5.34.210 Transfer of Permit.**

No massage establishment permit shall be transferable except with the consent of the City Manager. An application for such transfer shall be in writing and shall be accompanied by fees prescribed in Sections 5.34.060. The written application for such transfer shall contain the same information as requested herein for initial application for the permit.

**5.34.220 Violation and Penalty.**

Every person, except those persons who are specifically exempted by this Chapter, whether acting as an individual owner, employee of the owner, operator or employee of the operator, or whether acting as a mere agent or independent contractor for the owner, employee or operator, or acting as a participant or worker in any way directly or indirectly who gives massages or operates a massage establishment or any of the services defined in this Chapter without first obtaining a massage establishment permit from the City Manager, or that otherwise violates any provision of this Chapter, shall be punishable as specified in Sections 1.01.140 and 1.01.150.

**5.34.230 Violation a Nuisance.**

The City Council declares a violation of this Chapter to be a public nuisance.

SECTION 2. If any provision, clause, sentence, or paragraph of this Ordinance, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and, to this end, the provisions of this Ordinance are hereby declared to be severable.

SECTION 3. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS \_\_\_ DAY OF \_\_\_\_\_, 2015.

\_\_\_\_\_  
STEPHEN P. POUCKET, MAYOR

ATTEST:

\_\_\_\_\_  
JAMES THOMPSON, CITY CLERK



CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) ss.  
CITY OF PALM SPRINGS )

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. \_\_\_\_\_ is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on \_\_\_\_\_, 2015, and adopted at a regular meeting of the City Council held on \_\_\_\_\_, 2015, by the following vote

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
JAMES THOMPSON, CITY CLERK  
City of Palm Springs, California