



## **PLANNING COMMISSION STAFF REPORT**

**DATE:** September 14, 2016 **NEW BUSINESS**

**SUBJECT:** DANNY LEE FOR A DETERMINATION THAT A THERAPEUTIC MASSAGE ESTABLISHMENT IS A SIMILAR PERMITTED USE IN THE RA (RESORT ATTRACTION) LAND USE DESIGNATION OF THE SECTION 14 SPECIFIC PLAN (CASE 10.480 DET).

**FROM:** Department of Planning Services

---

### SUMMARY:

This is a request for a determination that a stand-alone therapeutic massage establishment is a similar permitted use in the RA (Resort Attraction) land use designation of the Section 14 Specific Plan.

### ISSUES:

- Massage establishments are not identified as a stand-alone use under the Palm Springs Zoning Code or under the Section 14 Specific Plan.
- The massage use is currently permitted as an accessory use to spa facilities in the RA (Resort Attraction) zone.

### RECOMMENDATION:

Approve the determination, subject to the requirement that a Land Use Permit application be required.

### BACKGROUND INFORMATION:

<i>Related Relevant City Actions</i>	
03/12/03	The Planning Commission approved a Determination application to allow a massage facility in the NSC (Neighborhood Shopping Center) zone; the facility was located at 4781 E. Palm Canyon Drive (Case 10.443 DET).

<i>Related Relevant City Actions</i>	
03/19/08	The City Council tabled a Zoning Text Amendment to allow the massage establishment use in commercial zones. The Planning Commission had voted to recommend approval of the amendment at their meeting of 01/09/08.
11/12/14	The Planning Commission approved a Conditional Use Permit (5.1353 CUP) for a stand-alone massage establishment use at 471 E. Tahquitz Canyon Way.

**ANALYSIS:**

Mr. Lee has a submitted a Determination application to request that the Planning Commission find that a stand-alone massage establishment use is similar to other permitted uses in the RA (Resort Attraction) land use designation of the Section 14 Specific Plan. Mr. Lee is proposing to locate a massage establishment business within the existing commercial building at 449 E. Tahquitz Canyon Way. The business would be located on the second floor of the building, and would be integrated with other office uses.

The massage establishment use is not identified as a stand-alone use in the Section 14 Specific Plan. The Section 14 Specific Plan governs land use and development standards for all properties within the specific plan boundaries, and supersedes the requirements of other City regulations (Section 14 Specific Plan, Section 1.6.1). Table 6-1 of the plan document identifies the permitted uses for the various districts within the specific plan area; unlike the zoning code, the list of uses is more generalized, and allows a broader categorization of uses. The use table includes a spa use under the general categorization of "Personal and Convenience Services," and it may be assumed that therapeutic massage would be provided as part of the spa services. However, the use table does not list a stand-alone massage establishment as a permitted use.

As a point of comparison, the Palm Springs Zoning Code (PSZC) allows the massage use as an accessory use to spa facilities, subject to the approval of a Conditional Use Permit (CUP) or a Land Use Permit (LUP). The zoning code does not specifically allow a massage establishment as a stand-alone use. The table below offers a summary of the district where spa uses are allowed and the associated approval process:

Zoning District	Use	Approval Process
R-2 Limited Multiple-Family Residential	Spa as an accessory use to a hotel	CUP
R-3 Multiple-Family Residential	Spa as an accessory use to a hotel	CUP

Zoning District	Use	Approval Process
R-4 Large-Scale Hotel and Multiple-Family Residential	Spa as an accessory use to a hotel	CUP
CBD Central Business District	Spa (massage use permitted as an accessory use to a spa)	LUP
C-1 Retail Business	Spa as an accessory use to a beauty parlor	LUP
	Spa as an accessory use to a hotel	CUP
C-1AA Large-Scale Retail Commercial	Spa as an accessory use to beauty parlor or health club	LUP
	Spa as an accessory use to a hotel	CUP
C-2 General Commercial	Spa as an accessory use to a beauty parlor	LUP
	Spa (stand-alone)	CUP
HC Highway Commercial	Spa as an accessory use to a hotel	CUP

There are examples of stand-alone massage uses in the City of Palm Springs. In 2014, a stand-alone massage establishment was approved via a Conditional Use Permit for the commercial building at 471 E. Tahquitz Canyon Way (the same commercial building where Mr. Lee is proposing to locate his business). State law at that time required municipalities to treat massage establishments as other office uses; as such, the application was processed in accordance with requirements for office uses in the RA designation. The law has since been amended to allow municipalities greater latitude in regulating the use. Massage Envy, a national chain of massage establishments, has a location at The Springs commercial center; a franchise massage use is allowed as a permitted use at the center under the approved Planned Development District for the site. Finally, the Planning Commission made a determination in 2003 that a massage establishment was similar to other permitted uses in the NSC (Neighborhood Shopping Center) zone for a business that was located at 4781 E. Palm Canyon. The business has since closed.

**FINDINGS – COMMISSION DETERMINATION**

Section 94.01.02(b) of the Palm Springs Zoning Code (PSZC) requires that the following conditions be met in order to approve the requested use determination:

1. *That the use is in keeping with the stated intent and purpose of the zone.*

The intent of the RA (Resort Attraction) designation is to allow for large-scale

resort hotel complexes, hotels, and major commercial recreation attractions integrated with retail and entertainment facilities. Resort hotels most typically offer spa services or provide spa facilities for hotel guests as well as for members of the general public. Where the massage use is secondary or accessory to resort or commercial uses, it is in keeping with the intent of the zone.

2. *That field investigations have disclosed that the subject use and its operation are compatible with the uses permitted in the zone wherein it is proposed to be located.*

The proposed use would be located in an existing commercial building on E. Tahquitz Canyon Way. The building houses retail, restaurant, and office uses, including an existing stand-alone massage establishment. The use, when integrated in a commercial complex with other office or commercial uses, can be compatible in the zone where it is proposed to be located.

3. *That the subject use is similar to one (1) or more uses permitted in the zone within which it is proposed to be located.*

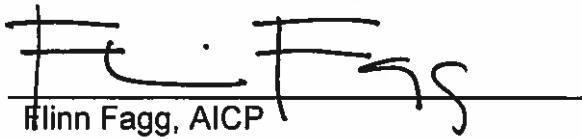
Resort hotels, which are a permitted use in the RA zone, typically provide spa facilities and massage services as an accessory use. The specific plan also allows personal and convenience services through a Conditional Use Permit process in the RA zone. Both use categories would allow therapeutic massage as an accessory use; consequently, the use is similar to uses permitted within the RA designation.

4. *That the subject use will not cause substantial injury to the values of property in the zone within which it is proposed to be located.*

The massage use, when accessory to other primary uses or when established in a mixture with other office or commercial uses, will not cause injury to property values. In addition, the use will be required to comply with the operational requirements listed in PSMC Chapter 5.34, "Massage Establishments," which will further protect public health, safety and welfare.

### CONCLUSION:

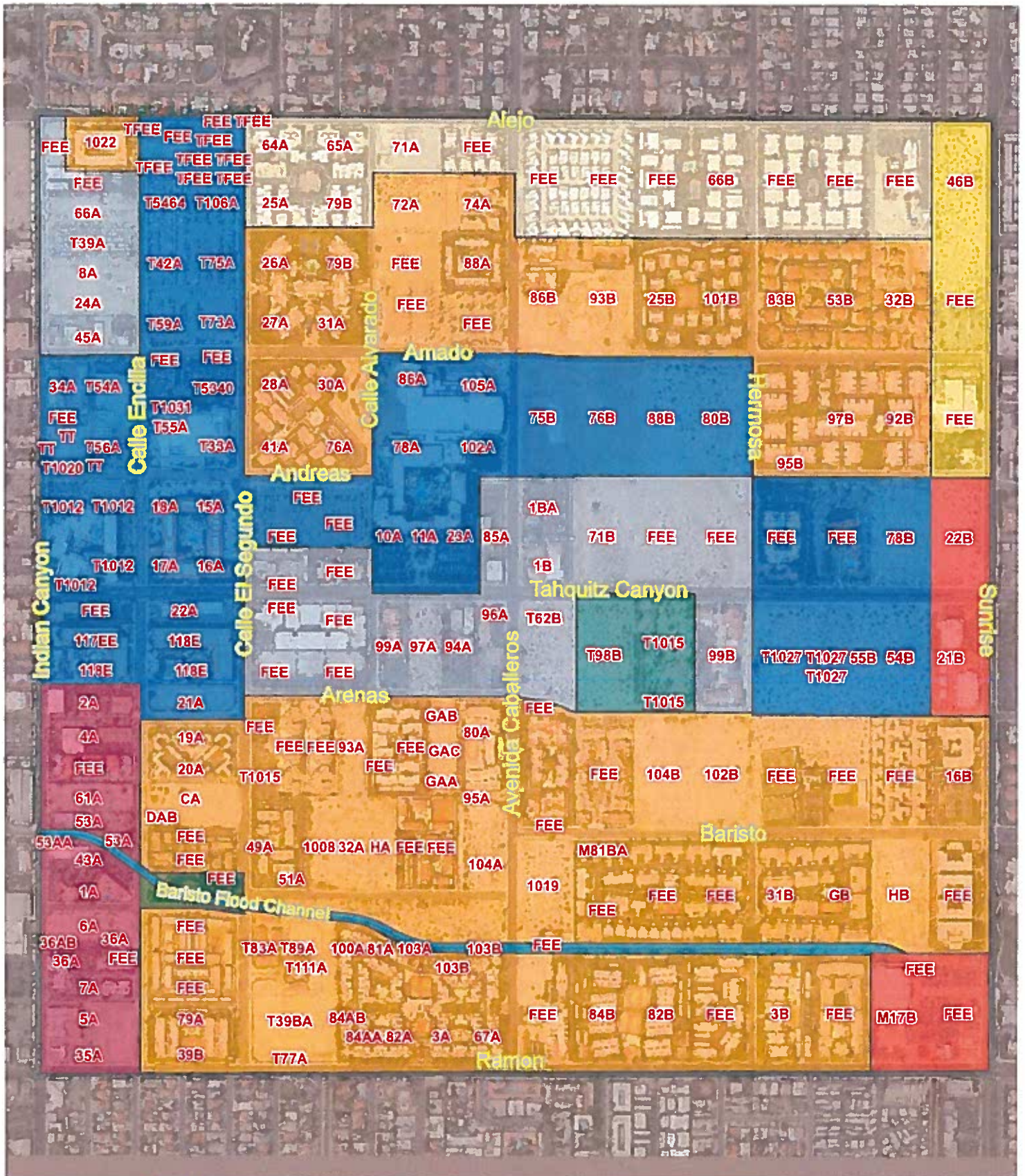
The massage use is permitted as an accessory use in the RA (Resort Attraction) zone, and allowing the use as a stand-alone use will have little impact to the character of the area or to the operations of existing businesses, provided the business is well-integrated with other office or commercial uses and operates in accordance with standards listed in PSMC Chapter 5.34. Staff would recommend that a Land Use Permit be issued for the stand-alone massage use, as a means for staff to evaluate the location and any impact to adjacent uses.

A handwritten signature in black ink, appearing to read "Bill Fagg", written over a horizontal line.

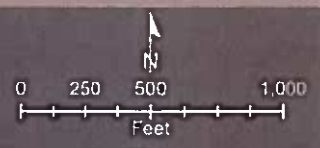
Bill Fagg, AICP  
Director of Planning Services

ATTACHMENTS:

1. Land Use Plan – Section 14 Specific Plan
2. Draft Resolution
3. Determination Request Letter (August 3, 2016)
4. PSMC Chapter 5.34 – Massage Establishments



- HR - Residential High
  - MR - Residential Medium
  - MBR - Residential Medium-Buffer
  - RFO - Retail/Entertainment/Office
  - RA - Resort Attraction
  - NC - Neighborhood Commercial
  - LSC - Local Serving Commercial
  - NSP - Neighborhood/ Specialized Park
  - C - Cemetery
  - W - Watercourse
- FEE, 56A Allotment Number



**Figure 4 - 1**  
**Land Use Plan**

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA, DETERMINING THAT A THERAPEUTIC MASSAGE ESTABLISHMENT IS SIMILAR TO OTHER PERMITTED USES IN THE RA (RESORT ATTRACTION) LAND USE DESIGNATION OF THE SECTION 14 SPECIFIC PLAN (CASE 10.480 DET).

THE PLANNING COMMISSION FINDS AND DETERMINES AS FOLLOWS:

A. Danny Lee ("Applicant"), has filed an application with the City pursuant to Section 94.01.00 of the Palm Springs Zoning Code (PSZC) for a determination that a therapeutic massage establishment, to be located at 449 E. Tahquitz Canyon Way, is similar to other permitted uses in the RA (Resort Attraction) land use designation of the Section 14 Specific Plan (Case No. 10.480 DET).

B. On September 14, 2016, a public meeting on the application was held by the Planning Commission in accordance with applicable law.

C. The Planning Commission has carefully reviewed and considered all of the evidence presented in connection with the hearing on the project, including, but not limited to, the staff report, and all written and oral testimony presented.

D. Pursuant to the requirements of Section 94.01.02(B), the Planning Commission finds:

1. *That the use is in keeping with the stated intent and purpose of the zone.*

The intent of the RA (Resort Attraction) designation is to allow for large-scale resort hotel complexes, hotels, and major commercial recreation attractions integrated with retail and entertainment facilities. Resort hotels most typically offer spa services or provide spa facilities for hotel guests as well as for members of the general public. Where the massage use is secondary or accessory to resort or commercial uses, it is in keeping with the intent of the zone.

2. *That field investigations have disclosed that the subject use and its operation are compatible with the uses permitted in the zone wherein it is proposed to be located.*

The proposed use would be located in an existing commercial building on E. Tahquitz Canyon Way. The building houses retail, restaurant, and office uses, including an existing stand-alone massage establishment. The use, when integrated in a commercial complex with other office or commercial uses, can be compatible in the zone where it is proposed to

be located.

3. *That the subject use is similar to one (1) or more uses permitted in the zone within which it is proposed to be located.*

Resort hotels, which are a permitted use in the RA zone, typically provide spa facilities and massage services as an accessory use. The specific plan also allows personal and convenience services through a Conditional Use Permit process in the RA zone. Both use categories would allow therapeutic massage as an accessory use; consequently, the use is similar to uses permitted within the RA designation.

4. *That the subject use will not cause substantial injury to the values of property in the zone within which it is proposed to be located.*

The massage use, when accessory to other primary uses or when established in a mixture with other office or commercial uses, will not cause injury to property values. In addition, the use will be required to comply with the operational requirements listed in PSMC Chapter 5.34, "Massage Establishments," which will further protect public health, safety and welfare.

THE PLANNING COMMISSION RESOLVES:

SECTION 1. This use shall be subject to the approval of a Land Use Permit, issued pursuant to the requirements of PSZC Section 94.02.01.

SECTION 2. Based upon the foregoing, the Planning Commission hereby approves Case No. 10.480 DET.

ADOPTED this 14th day of September, 2016.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

---

Flinn Fagg, AICP  
Director of Planning Services



**Danny Lee**  
**67853 Pamela Ln**  
**Cathedral City, CA 92234**  
(505) 307 3491/abqdan@gmail.com

Massage Therapist  
*Licensed in California (CMT # 67245)*  
Licensed in New Mexico (LMT, RMTI)  
Graduate of the New Mexico School of Natural  
Therapeutics (NTS).

## **Application for Permission for Unlisted Use in C-1 Zoned Building**

Mr Flinn Fagg, Director of Planning Services, has advised me to submit in writing the following information. He stated that *"The application process to request a determination from the Planning Commission requires the submittal of a request letter, outlining the proposed use and district where the use is to be located, as well as providing a justification as to why the use is similar to other uses permitted in the district"*. I trust that the following meets this requirement, but I am happy to present any further information required in support of this application.

### **PROPOSED USE**

I am applying for permission to work as an independent (sole proprietor) massage therapist from an office located in the Noia Building situated at 449 E Tahquitz Canyon Way, Palm Springs, CA 92264.

The proposed location is on the second floor of the building, with no street exposure. Customer access is through the front lobby of the building. There is no proposal for any street-facing advertising or signage for this business.

### **SIMILAR USE**

A similar business was granted permission to work from this location two years ago, and is still operating successfully from this building. The building owner is working with me to ensure the proposed space meets all requirements as defined under the Palm Springs Municipal Code, Chapter 5.34 [Massage Establishments], should this planning request be granted by the Commission.

Proposed usage is for the provision of therapeutic massage and related treatments, comprising Swedish and Deep Tissue Massage, Hot Stone application, and Polarity. Treatments are designed to address specific injuries and health issues, including but not limited to sports related injuries, back pain, and muscle tissue problems. These services are comparable to those offered by the other business already trading from the building.

### **BUSINESS OPERATION**

No walk-ins are accepted for treatment. Typically, referrals are from chiropractors, psychologists, other treatment facilities, and existing clients. In some instances, massage clients may be referred by medical doctors, in which case fees may be paid by a health insurance company.

### **BACKGROUND OF APPLICANT**

I qualified in the field of massage therapy in 2010. Since then I have conducted business in New Mexico as both a Licensed Massage Therapist, and as a Registered Massage Therapy Instructor, working at the *New Mexico School of Natural Therapeutics*. References from the director of the school are available. I am a member of the professional *Association of Bodywork and Massage Professionals (ABMP)*.

**Respectfully submitted for consideration by the Palm Springs Planning Commission, 8/3/16**

## Palm Springs Municipal Code

Up Previous Next Main Collapse Search Print No Frames

Title 5 BUSINESS REGULATIONS**Chapter 5.34 MASSAGE ESTABLISHMENTS****5.34.010 Citation.**

This Chapter may be cited as the Palm Springs Massage Ordinance. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

**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. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

**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.
- (2) "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.
- (3) "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.
- (4) "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.
- (5) "Health Department" means the Department of Public Health of the County of Riverside.
- (6) "Permittee" means the person to whom a massage establishment permit has been issued to own or operate a massage establishment as defined in this section.
- (7) "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.
- (8) "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 (7), 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 (7).
- (9) "Massagist" means any person who, for any consideration whatsoever, engages in the practice of massage as defined in subsection (7).
- (10) "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.
- (11) "Person" means any individual, partnership, firm, association, joint stock company, corporation, limited liability company, or combination of individuals of whatever form or character. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

**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. (Ord. 1871 § 1, 2015; Ord. 1432 § 1, 1993; Ord. 1234 § 1, 1985)

**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, 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. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

**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 or 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. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

#### **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 Section 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. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

#### **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. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

#### **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. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

#### **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. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

#### **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. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

**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. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

**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. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

**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. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

---

**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. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

---

**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. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

---

**5.34.170 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. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

---

**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. (Ord. 1871 § 1, 2015; Ord. 1248 § 3, 1985; Ord. 1234 § 1, 1985)

---

**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. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

---

**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. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

---

**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 Section 5.34.060. The written application for such transfer shall contain the same information as requested herein for initial application for the permit. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

---

**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. (Ord. 1871 § 1, 2015; Ord. 1409 § 1, 1992; Ord. 1234 § 1, 1985)

---

**5.34.230 Violation a nuisance.**

The City Council declares a violation of this Chapter to be a public nuisance. (Ord. 1871 § 1, 2015; Ord. 1234 § 1, 1985)

---

View the [mobile version](#).