

ORDINANCE NO. 07-2015

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE REPEALING AND REENACTING ELK GROVE MUNICIPAL CODE CHAPTER 4.30 RELATING TO ADULT-RELATED ESTABLISHMENTS, ADOPTING ELK GROVE MUNICIPAL CODE CHAPTER 4.32 RELATING TO MASSAGE BUSINESSES, AND REPEALING ORDINANCE NO. 02-2015 PROVIDING FOR A MORATORIUM ON THE ESTABLISHMENT OR EXPANSION OF MASSAGE ESTABLISHMENTS

WHEREAS, the City of Elk Grove has an interest in regulatory licensing of businesses within the City; and

WHEREAS, *implicit in any regulation is the City's interest in maintaining the quality of life and character in the City's neighborhoods; and*

WHEREAS, the City maintains an interest in preventing activities that are a threat to the health, safety and welfare of the community; and

WHEREAS, without regulatory licensing of specified businesses, sections of the City can be affected, with consequences to social, environmental, and economic values; and

WHEREAS, on September 27, 2008, the Governor approved Senate Bill 731, which sanctioned Business and Professions Code sections 4600 et seq., known as the Massage Therapy Act; and

WHEREAS, pursuant to Senate Bill 731, the California Massage Therapy Council ("CAMTC") was formed and subsequent legislation prohibited cities from requiring licenses or permits of holders of CAMTC certificates and preempted most regulations pertaining to the operation of massage establishments; and

WHEREAS, on September 18, 2014, Governor Brown signed Assembly Bill 1147 ("AB1147"), effective January 1, 2015, which revised existing laws regulating certified massage professionals and gave cities some regulatory authority over massage establishments, *including return of land use authority over massage establishments to cities; and*

WHEREAS, a revision of the Elk Grove Municipal Code pertaining to adult-related establishments and massage businesses will streamline licensing procedures while promoting those businesses providing a legitimate service to the community; and

WHEREAS, a revision of the Elk Grove Municipal Code will also bring the City's local ordinance into compliance with uniform statewide regulations enacted by Assembly Bill 1147; and

WHEREAS, with this revision of the Elk Grove Municipal Code, Ordinance No. 02-2015 extending the moratorium on the establishment and re-establishment of massage businesses is no longer necessary and can now be repealed; and

WHEREAS, the accompanying staff report shall serve as the report provided for by Government Code section 65858(d), describing the measures taken to alleviate the condition leading to the moratorium ordinance.

NOW, THEREFORE, the City Council of the City of Elk Grove does ordain as follows:

Section 1: Purpose and Intent

The purpose of this Ordinance is to amend Elk Grove Municipal Code to facilitate a consistent process for the regulatory licensing of adult-related establishments and massage businesses, and to comply with state regulations as it relates to massage services.

This Ordinance imposes local regulations upon adult-related establishments and massage businesses to provide the City preventative and investigatory measures to preclude the operation of illegitimate businesses, and to protect the health, safety and welfare of the public.

This Ordinance will repeal the temporary moratorium placed upon the establishment or expansion of massage businesses as imposed by Ordinance No. 02-2015.

Section 2: Findings

- A. Prior legislation, including Senate Bill 731, 294, and 1238, and Assembly Bill 619, preempted the City's authority to regulate massage establishments and providers certified pursuant to Business and Professions Code Section 4600 *et seq.*, known as the Massage Therapy Act.
- B. Recognizing the need to return regulatory authority to cities, on September 18, 2014, Governor Brown signed Assembly Bill 1147 ("AB1147"), effective January 1, 2015, which gives cities some regulatory authority over massage establishments by repealing and amending the Act, and amending Section 4600 of the Business and Professions Code and Sections 51034 of the Government Code.
- C. As a result of this change and the authority now provided to the City, it was found necessary for the City to amend its current adult-related and massage business related regulations to maintain compliance with state law.
- D. This Ordinance is necessary to decrease the likelihood of blight, crime, calls for police service, code enforcement, and other matters that negatively impact City resources and that may have negative secondary effects on surrounding areas by creating an uninviting and potentially dangerous environment affecting the City's economic vitality and ability to attract and retain businesses and shoppers.

- E. The City has taken steps to update its Municipal Code to ensure the City's laws are consistent with the goals, policies, and standards of the General Plan and the goals of the City Council to protect the public health, safety, and welfare.
- F. The City has also reviewed its Zoning Code pertaining to adult-related businesses and massage businesses and found that no changes were needed there.

Section 3: Amendment to EGMC Title 4 – Business Regulation, Repealing Chapter 4.30 Adult-Related Establishments and Reenacting it with Chapter 4.30 Adult-Related Businesses

EGMC Chapter 4.30 “Adult-Related Establishments” is hereby repealed in whole and reenacted with Chapter 4.30 “Adult-Related Businesses,” as attached hereto as Exhibit A and incorporated herein by reference.

Section 4: Amendment to EGMC Title 4 – Business Regulation, Adoption of Chapter 4.32 Massage Businesses

EGMC Chapter 4.32 “Massage Businesses” is hereby adopted, as attached hereto as Exhibit B and incorporated herein by reference.

Section 5: Repeal of Ordinance 02-2015 – Moratorium on the Establishment or Expansion of Massage Businesses.

Ordinance No. 02-2015, providing for a moratorium on the establishment or expansion of massage businesses, is hereby repealed as of the effective date of this Ordinance.

Section 6: California Environmental Quality Act (CEQA)

Finding: The City Council hereby finds that the adoption of this Ordinance does not constitute the approval of a “project” under the California Environmental Quality Act (CEQA) pursuant to sections 15060(c)(2) and (3), 15061(b)(3), 15262, and 15378 of the State CEQA Guidelines. Specifically, this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment because it does not authorize the establishment of any new massage businesses, nor does it authorize the construction of any new structures or other physical changes to the environment. This Ordinance has no potential for resulting in physical change to the environment directly or indirectly in that it prevents change to the environment pending the completion of the contemplated research and studies. Therefore, this action is exempt under sections 15060(c)(2) and (3), 15061(b)(3), 15262, and 15378 of the State CEQA Guidelines.

Section 7: No Mandatory Duty of Care.

This Ordinance is not intended to, and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 8: Severability.

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

Section 9: Effective Date and Publication

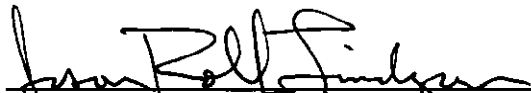
This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

ORDINANCE: 07-2015
INTRODUCED: March 25, 2015
ADOPTED: April 8, 2015
EFFECTIVE: May 8, 2015



GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: April 13, 2015

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Replacement of EGMC Chapter 4.30 (Adult-Related Businesses, *formerly Adult-Related Establishments*)

**Chapter 4.30
ADULT-RELATED BUSINESSES**

Sections:

Article I. General Provisions

- 4.30.000 Purpose.
- 4.30.005 Definitions – Generally.
- 4.30.010 Health and safety requirements.
- 4.30.015 Operating requirements.

Article II. Licenses and Permits

- 4.30.100 Special business license required.
- 4.30.105 Display of license.
- 4.30.110 License application.
- 4.30.115 Revocation or suspension of special business license.
- 4.30.120 Owner responsibility.
- 4.30.125 Employee permits required.
- 4.30.130 Permit application.
- 4.30.135 Permit issuance.
- 4.30.140 Revocation of permits.
- 4.30.145 Time for compliance.

Article I. General Provisions

4.30.000 Purpose.

There has been a proliferation throughout the region of adult-related businesses, such as escort services, introductory services, public bathhouses, and similar businesses which offer patrons services or entertainment of an adult character. There has been a demonstrable relationship between prostitution, human trafficking and drug-related crime, and the adult-related businesses regulated by this chapter. Such businesses have been known to operate as fronts for houses of prostitution, human trafficking operations and illegal drug-related transactions. Past regulation by the regional governments of some of these businesses have been unsuccessful because the businesses evade regulations by changing their names to indicate different ownership, objects or purposes from the types of businesses regulated.

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A system of requiring regulatory licenses for adult-related businesses and for those persons rendering services to customers will assist in assuring illegal activities do not occur on the premises or otherwise in connection with the business within the City. If criminal activity occurs on the premises, or if other provisions of this chapter are violated, the licenses are subject to suspension and/or revocation. Criminal liability also exists for a violation of this chapter. These provisions will provide the Chief of Police with both preventative and investigatory tools to control illegal activity in such businesses, and will promote and protect the public health, safety and welfare.

By the definition of “adult-related businesses” contained in EGMC Section 4.30.005, it is the intent of the City Council to prevent evasion of the provisions of this chapter through the device of calling the business by a new or different name.

4.30.005 Definitions.

The definitions contained in this section shall govern the construction of this chapter.

A. “Adult-related business” means a bathhouse, escort service, introductory service, or out-call service, or similar business, as defined by this chapter. “Adult-related business” does not include an “adult-oriented business” as defined and regulated in EGMC Chapter 4.31, nor does it include a “massage business” as defined and regulated in EGMCC Chapter 4.32.

B. “Adult-related establishment” means a fixed location where an adult-related business is regularly conducted, excluding those locations where adult-related services are provided on an out-call basis.

C. “Adult-related service” means any service which may be provided by an adult-related business.

D. “Bathhouse” means an adult-related establishment whose primary business is to provide, for compensation, access to any kind of bath facility, including, but not limited to, showers, saunas and hot tubs.

E. “Client” means a person who pays consideration for, and/or receives, services from an adult-related business.

F. “Compensation” or “consideration” means the payment, loan, advance, donation, contribution, deposit, exchange, or gift of money or anything of value.

G. “Employed” or “retained by” shall include, without limitation:

1. Any person who is a directly paid employee of an adult-related business;

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2. Any person whose association with an adult-related business is that of an independent contractor who receives compensation in exchange for any service rendered to or for the adult-related business or any of its clients;

3. Any person who receives a referral of clients from an adult-related business and who at any time before the referral or thereafter compensates the adult-related business for the referral, regardless of whether the parties involved acknowledge that consideration is flowing in exchange for the referral or record such consideration in their financial records.

H. "Employee" means any person employed or retained by an adult-related business.

I. "Escort services", in relation to the following terms, shall be ascribed the following meanings:

1. "Escort bureau" means a business which, for compensation, furnishes or offers to furnish escorts;

2. "Escort" means a person who, for compensation, either escorts or accompanies others to or about social affairs, entertainment or places of amusement, or keeps company with others.

J. "Introductory service" means a business which, for compensation, will help persons to meet or become acquainted with others for social purposes. For purposes of this section, "others" include personnel of the introductory service.

K. "Manager" means a person who supervises, manages, directs, organizes, controls, or in any other way is responsible for or in charge of the conduct of the activities within the adult-related business.

L. "Out-call service" means the engaging in or carrying on of services provided by an adult-related business for compensation in a location other than at an adult-related establishment.

M. "Owner" means any person with majority ownership interest in the adult-related business, and any part-owner who is actively involved in the operations of the adult-related business.

N. "Reception area" means the area immediately inside the front door of the adult-related establishment dedicated to the reception and waiting of clients and visitors of the adult-related establishment, which is not a therapy room or otherwise used for the provision of services.

O. "Sole proprietorship" means an adult-related business where the owner owns 100 percent of the business, is the only person who provides adult-related services for compensation for that business pursuant to a valid and active license issued in accordance with this chapter, and has no other employees.

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P. "Solicit" means to request, ask, demand or otherwise arrange for the provision of services.

4.30.010 Health and safety requirements.

The following health and safety requirements shall be applicable to all adult-related businesses with the City of Elk Grove:

A. Bathhouses shall at all times be equipped with an adequate supply of clean sanitary towels, coverings, and linens. Clean towels, coverings and linens shall be stored in enclosed cabinets marked "Clean Linen." Towels and linens shall not be used on more than one (1) client, unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one (1) client. Soiled linens and towels shall be deposited in separate receptacles marked "Soiled Linen."

B. Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bath rooms, tanning booths, whirlpool baths and pools shall be thoroughly cleaned and disinfected as often as needed, but at a minimum of once each day the premises is open and/or operating, with a hospital grade disinfectant. Bathtubs shall be thoroughly cleaned after each use with a hospital grade disinfectant. All walls, ceilings, floors, and other facilities for the business must be in good repair, and maintained in a clean and sanitary condition. Instruments utilized in performing services shall not be used on more than one (1) client unless they are clean and have been sterilized prior to use on the client, using sterilization methods that ensure the sanitation of the instruments.

C. No person shall enter, be, or remain in any part of an adult-related establishment while in possession of an open container of alcohol without the adult-related establishment possessing proper licensing through the California Department of Alcoholic Beverage Control. No person shall enter, be, or remain in any part of an adult-related establishment while in possession of controlled substances, except pursuant to a valid prescription for such medications. The owner, manager, or responsible managing employee shall not permit any such person in violation of this subsection to enter or remain upon the premises of the adult-related establishment.

D. Adult-related establishments shall provide clients with adequate dressing, locker and toilet facilities. All locker facilities that are provided for the use of clients shall be fully secured for the protection of the clients' valuables, and clients shall be given control of the key or other means of access.

E. All liquids, creams, and other preparations used for, or made available to clients, at the adult-related establishments shall be maintained in clean, sanitary and closed containers. Powders may be kept in clean shakers. All bottles and containers shall be distinctly and correctly labeled to disclose their contents. When only a portion of a liquid, cream or other preparation is to be used on or made available to the client, it shall be removed from the container in such a way as not to contaminate the remaining portion or otherwise introduce bacteria or other matter.

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F. Beds, floor mattresses, waterbeds and similar furnishings are not permitted on the premises of any adult-related business. This subsection shall not apply to a private residence or multi-unit temporary or permanent dwelling such as apartments or hotels, except as otherwise prohibited by state or local laws.

G. No person afflicted with an infection or parasitic infestation capable of being transmitted to a client shall remain on the premises of an adult-related establishment while so infected or infested. Infections or parasitic infestations capable of being transmitted to a client include, but are not limited to: (1) cold, influenza or other respiratory illness which may or may not be accompanied by a fever, for seven days after illness onset or until twenty-four hours after the cessation of symptoms, whichever is longer; (2) streptococcal pharyngitis ("strep throat"), until twenty-four hours after treatment has been initiated and twenty-four hours after the cessation of symptoms; (3) purulent conjunctivitis ("pink eye"), until examined by a physician and approved for return to work; (4) pertussis ("whooping cough"), until five days of antibiotic therapy has been completed; (5) varicella ("chicken pox"), until the sixth day after onset of rash or sooner if all lesions have dried and crusted; (6) mumps, until nine days after onset of parotid gland swelling; (7) tuberculosis until a physician or local health department authority states that the person is *noninfectious*; (8) impetigo (bacterial skin infection), until twenty-four hours after treatment has begun; (9) pediculosis ("head lice"), until there is no further infestation; and (10) scabies ("crabs"), until after treatment has been completed. Blood-borne diseases, such as HIV/AIDS and hepatitis B (HBV), shall not be considered infectious or communicable diseases for the purpose of this subsection.

H. No person or persons shall be allowed to live inside an adult-related establishment at any time. All living quarters shall be separate from the adult-related establishment. This subsection shall not apply to a private residence or multi-unit temporary or permanent dwelling such as apartments or hotels, except as otherwise prohibited by state or local laws.

4.30.015 Operating requirements.

The following operating requirements shall be applicable to all adult-related businesses within the City of Elk Grove:

A. Adult-related services within an adult-related establishment shall be provided or given only between the hours of 8:00 a.m. and 10:00 p.m., unless the Chief of Police determines shorter hours of operation are necessary as a condition of any special business license in order to protect the health, safety and general welfare of the public. No adult-related establishment shall be open and no adult related-services shall be provided between 10:00 p.m. and 8:00 a.m. Adult-related services shall terminate by 10:00 p.m. For adult-related services provided within an adult-related establishment, all clients must exit the adult-related establishment by 10:00 p.m. Adult-related businesses must inform clients of the requirement that services must cease, and the premises vacated by the client, by no later than 10:00 p.m. each day. For adult-related establishments, the hours of operation must be posted so that they are clearly visible from the outside of the adult-related establishment.

B. A list of the services available and the cost of such services shall be posted in the reception area within the adult-related establishment, and shall be described in English and other such languages as

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necessary to communicate services to clients. No owner, manager, or responsible managing employee shall permit, and no employee shall offer, solicit or perform, any service other than those posted or listed as required herein, nor shall an employee request or charge a fee for service other than the fee stated on the list of services.

C. Each adult-related business shall be managed at all times by a person employed or retained by the business who is familiar with the requirements of this chapter, and capable of communicating the provisions of this chapter to clients and persons employed or retained by the adult-related business. The adult-related business shall post, on a daily basis and in a conspicuous place in the reception area, the name of the manager on duty. An adult-related business shall not be deemed "managed" as required by this subsection unless the manager has the authority and responsibility to supervise persons employed or retained by the adult-related business to perform adult-related services and to supervise the delivery of adult-related services.

D. Every adult-related business must maintain a register, in writing, of all persons employed or retained by the adult-related business. The register must contain the full legal names of all persons employed or retained by the adult-related business, and include any aliases and assumed names used, home addresses, birth dates, telephone numbers, dates of employment and termination, if any, and the duties of each person. A complete register of all required information must be maintained at the adult-related business at all times in English, and retained for a period of at least two (2) years following an employee's separation from the adult-related business. The register must be available by the adult-related business for inspection by representatives of the City during regular business hours.

E. For each adult-related service provided, every adult-related business shall keep a complete and legibly written record in the English language of the following information: (1) the date and hour that service was provided; (2) the adult-related service(s) received; (3) the name of the employee or other retained person entering the information; and (4) the name of the employee or other retained person administering the adult-related service. Such records shall be available for inspection by representatives of the City. Such records shall be retained by the adult-related business for a period of two (2) years from the date the adult-related service was provided.

F. It shall be unlawful for the owner, manager, or any other person in charge of an adult-related business to employ or retain any person who is under eighteen (18) years of age to perform any service on or off the premises of the adult-related establishment, or in relation to the adult-related business.

G. All persons working in or for an adult-related business shall be fully clothed at all times while on the premises of the establishment and/or while provided adult-related services as part of an out-call service. Clothing shall be clean, fully opaque, of nontransparent material without holes, and provide complete coverage from mid-thigh to three inches below the collar bone with the exception of the shoulders and arms. The midriff shall not be exposed.

H. No adult-related business shall place, publish or distribute, or cause to be placed, published or distributed, any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective clients that any service is available other than those services listed as an available service pursuant to this chapter, nor shall any adult-related business employ language in the text of such

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advertising that would reasonably suggest to a prospective client that any service is available other than those services listed as an available service pursuant to this chapter.

I. No services may be provided in an adult-related establishment within any cubicle, booth, or other area which is fitted with a door capable of being locked. The premises' exterior doors and the doors separating the entrance area from the remainder of the premises must remain unlocked during business hours, unless there is no staff available to assure the security of the clients and employees who are behind closed doors.

J. No adult-related establishment located in a building or structure with exterior windows fronting a public street, highway, walkway or parking area shall block visibility into the interior entrance area through the use of curtains, closed blinds, tints, or any other material that obstructs, blurs or unreasonably darkens the view into the premises.

K. Lighting consisting of at least one (1) artificial light of not less than 450 lumens shall be provided and shall be operating in each room or enclosure where services are being performed, and in all areas where clients are present.

L. All adult-related establishments shall comply with all state and federal laws and regulations for clients with disabilities.

M. All signs shall be in conformance with the Elk Grove Municipal Code.

N. No electrical, mechanical, or artificial device shall be used by the owner, manager, or any employee of the adult-related business for audio and/or video recording or for monitoring the services or conversation or other sounds inside the adult-related establishment without first obtaining the informed, express written consent of the client.

O. No service shall be administered to a client that results in intentional contact, or occasional and repetitive contact, with the genitals, anal region, or the female breasts.

P. No act of prostitution, as that term is defined in the California Penal Code, shall occur at an adult-related establishment and/or through an adult-related business and/or while providing adult-related services.

Q. No sexual activity shall occur at an adult-related establishment and/or through an adult-related business and/or while providing adult-related services.

4.30.020 Inspection by government officials.

All adult-related businesses shall permit representatives of the City to conduct a reasonable inspection of the public areas of and areas otherwise open to plain view on or within the premises, to the extent allowed by law, during the regular business hours of the adult-related business, for the purpose of ensuring compliance with State and local law, including, but not limited to, compliance with the requirements of this chapter and other applicable fire and health and safety requirements.

Article II. Licenses and Permits

4.30.100 Special business license required.

It shall be unlawful for any person to operate or conduct an adult-related business unless under and by authority of a valid, unexpired and unrevoked special business license issued pursuant to the provisions of EGMC Chapter 4.10 and this chapter.

4.30.105 Display of license.

A. Each adult-related business shall display the special business license in a conspicuous place within the establishment so that the same may be readily seen by persons entering the premises.

B. A person engaged in an out-call service and/or away from the adult-related establishment who is the licensee for such service shall have the license available for inspection at all times while providing out-call services.

4.30.110 License application.

A. In addition to the matters prescribed by EGMC Section 4.10.030, an application for an adult-related business special business license shall contain the following:

1. Legal name of the business;
2. Address and telephone number of the business;
3. The form of business under which the business will be operating (i.e., corporation, general or limited partnership, limited liability company, or other form);
4. Legal names of all owners of the business;
5. Residence addresses and telephone numbers for all owners of the business;
6. Business address and telephone number of all owners of the business;
7. The owner's business, occupation, and employment history for the five years preceding the date of the application; the inclusive dates of such employment history; the name and address of any business owned or operated by the individual whether inside or outside the City;
8. For all owners, a copy of a valid and current driver's license and/or identification issued by a State or Federal governmental agency or other photographic identification bearing a bona fide seal by a foreign government;
9. For all owners, a signed statement that all of the information contained in the application is true and correct, that all owners shall be responsible for the conduct of the business'

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employees, and acknowledgment that failure to comply with any local, State, or Federal law may result in suspension or revocation of the business' special business license;

10. A list of each criminal conviction for each owner applicant. The list shall, for each such conviction, set forth the date of arrest, the offense charged and the offense for which the applicant was convicted;

B. Each owner of the adult-related business shall submit to a criminal history background check.

C. The Chief of Police may require the adult-related business in its application for a special business license, or for the renewal of a special business license, to provide relevant information to the activities of the business regulated by this chapter, and make reasonable investigations into the information so provided.

D. No application for a special business license shall be accepted within one year after the same applicant's application for a special business license or renewal has been denied, or a licensee's special business license has been revoked or suspended.

E. For a period of one year commencing as of the date the special business license was suspended and/or revoked, no adult-related business shall be established at a location where another adult-related business located at that location had its special business license suspended and/or revoked.

4.30.115 Revocation or suspension of special business license.

A. Notwithstanding chapter 4.10, the Chief of Police may deny, revoke, restrict or suspend a special business license if an owner, employee, or other representative of the business or establishment has committed a violation of this chapter or of any other law.

4.30.120 Owner responsibility.

For the purpose of enforcement of the requirements of this chapter, all owners of the adult-related business shall be responsible for the conduct of all persons employed by the adult-related business while on the premises of the adult-related establishment and while otherwise providing services on behalf of the adult-related business.

4.30.125 Employee permits required.

A. It shall be unlawful for any person to be employed or retained by an adult-related business without possessing a valid, unexpired and unrevoked employee permit issued pursuant to the provisions of EGMC Chapter 4.10 and this chapter.

B. It shall be unlawful for the owner and manager of any adult-related business to employ or retain a person unless such person possesses an employee permit issued by the City of Elk Grove.

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C. Each employee of, and person retained by, an adult-related business shall have their employee permit available for inspection at all times during working hours when inside the adult-related establishment, and when providing out-call services for the adult-related business.

D. Independent contractors may be exempt from possessing an employee permit provided that such person possesses a valid, unexpired and unrevoked special business license pursuant to the provisions of EGMC 4.10 and this chapter.

4.30.130 Employee Permit application.

In addition to the matters prescribed by EGMC Section 4.10.080, an application for an employee permit to provide adult-related services shall contain the following:

1. The applicant's business, occupation and employment history for the five years preceding the date of the application; the inclusive dates of such employment history; the name and address of any business owned or operated by the applicant whether inside or outside the City.
2. A copy of a valid and current driver's license and/or identification issued by a State or Federal governmental agency or other photographic identification bearing a bona fide seal by a foreign government;
3. A list of each criminal conviction of each owner applicant. The list shall, for each such conviction, set forth the date of arrest, the offense charged and the offense in which the applicant was convicted.

4.30.135 Employee Permit issuance.

Upon receipt of an application for an employee permit for an adult-related business, the Chief of Police shall conduct such investigation pursuant to EGMC Section 4.10.085 as is deemed necessary. The Chief of Police shall issue the permit unless he or she finds pursuant to EGMC Section 4.10.090 any of the following:

1. That the application fails to contain information required by the Chief of Police or Elk Grove Municipal Code section 4.30.130, or is otherwise incomplete;
2. That information contained in the application is false or otherwise inaccurate;
3. That the applicant has been convicted of a crime and the time for appeal has elapsed, or when an order granting probation is made suspending the imposition of sentence, irrespective of the entry of a subsequent order under Section 1203.4 of the California Penal Code; or has done any act involving dishonesty, fraud or deceit with intent to substantially benefit himself or herself, or another, or substantially injure another; and the Chief of Police concludes that by reason of the crime or act there is a substantial risk that the applicant would not perform his or her duties in a

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law-abiding manner or in a manner which would not subject patrons to risk of harm or criminal, deceitful or otherwise unethical practices.

Notwithstanding the foregoing, an application shall not be denied solely on the basis that a person has been convicted of a felony if the person has obtained a certificate of rehabilitation under Section 4852.01, et seq., of the California Penal Code, or that the person has been convicted of a misdemeanor if the person has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering the denial of a license under Section 482(a) of the California Penal Code;

4.30.140 Suspension and revocation of employee permits.

In addition to any other grounds for suspension and revocation set forth in Title 4 of the Elk Grove Municipal Code, an employee permit may be revoked or suspended pursuant to Elk Grove Municipal Code section 4.10.140 upon any of the following grounds:

1. Violation of any of the duties, requirements or prohibitions set forth in the Elk Grove Municipal Code or other applicable law.
2. Misrepresentation of a material fact contained in the application for the permit; or
3. That since issuance or renewal of the permit the Chief of Police has acquired information supporting a finding prescribed by EGMC Section 4.30.135 in relation to the holder of the permit.

4.30.145 Time for compliance.

All provisions of this Chapter shall be deemed enforceable from the effective date of the ordinance codified in this chapter.

City of Elk Grove

Introduction of new EGMC Chapter 4.32 (Massage Businesses)

**Chapter 4.32
MASSAGE BUSINESSES**

Sections:

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Article I. General Provisions

4.32.000 Purpose.

It is the purpose and intent of this chapter to provide for the orderly regulation of businesses and establishments providing massage services, and to prevent and discourage the misuse of massage as a front for prostitution and related activities in violation of state law, all in the interests of the public health, safety, and welfare, by providing certain minimum building, sanitation, and operation standards for such businesses, and by requiring certain minimum qualifications for the operators and practitioners of such businesses. It is the further intent of this chapter to streamline local massage therapy licensing procedures, while still facilitating and advancing the ethical practice of massage therapy, by relying upon the uniform statewide regulations enacted by the Legislature in 2008 as Business and Professions Code sections 4600 et seq., known as the Massage Therapy Act, and by restricting the commercial practice of

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massage in the City of Elk Grove to those persons duly certified to practice by the California Massage Therapy Council formed pursuant to those statutes.

Further, regulating the business of massage is essential as there can be significant risk of injury to clients by improperly trained or uneducated massage providers. This regulation is also necessary to preserve the health and safety of the employees of such establishments and the public by standardizing the sanitation, decency and maintenance of facilities, and by requiring the owner's compliance with applicable State and local law.

4.32.005 Definitions.

The definitions contained in this section shall govern the construction of this chapter.

- A. "California Massage Therapy Council" or "CAMTC" means that organization created pursuant to California Business and Professions Code sections 4600, *et seq.*

- B. "CAMTC certificate" means a current and valid certificate issued by the CAMTC to a Certified Massage Therapist or Certified Massage Practitioner pursuant to California Business and Professions Code section 4600, *et seq.*

- C. "Certified Massage Practitioner" means a person who is certified by the CAMTC pursuant to California Business and Professions Code section 4604.2.

- D. "Certified Massage Therapist" means a person who is certified by the CAMTC pursuant to California Business and Professions Code section 4604.

- E. "Client" means a person who pays consideration for, and/or receives, massage services.

- G. "Compensation" or "consideration" means a payment, loan, advance, donation, contribution, deposit, or gift of money, or anything of value.

- H. "Employed" or "retained by" shall include, without limitation:
 - 1. Any person who is a directly paid employee of a massage business;

 - 2. Any person whose association with a massage business is that of an independent contractor, and who receives compensation for massage services;

 - 3. Any person who receives a referral of clients from a massage business and who at any time before the referral or thereafter compensates the massage business for the referral, regardless of whether the parties involved acknowledge that consideration is flowing in exchange for the referral or record such consideration in their financial records.

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I. "Employee" means any person employed or retained by a massage business.

J. "Massage" means the scientific manipulation of the soft tissues. For purposes of this chapter, the terms "massage" and "bodywork" shall have the same meaning.

K. "Massage business" means a business where massage is provided for compensation.

F. "Massage establishment" means a fixed location where massage is regularly conducted, excluding those locations where massage services are only provided on an out-call basis.

L. "Massage provider" means a Certified Massage Therapist or a Certified Massage Practitioner who administers massage for compensation.

M. "Manager" means a person who supervises, manages, directs, organizes, controls, or in any other way is responsible for or in charge of the conduct of the activities within a massage business.

N. "Out-call massage" means the engaging in or performing massage therapy by a massage provider for compensation in a location other than at a massage establishment.

O. "Owner" means any person with majority ownership interest in the massage business, and any part-owner who is actively involved in operations of the massage business.

P. "Reception area" means the area immediately inside the front door of the massage establishment dedicated to the reception and waiting of clients and visitors of the massage establishment, which is not a massage room or otherwise used for the provision of massage services.

Q. "Recognized school of massage" means an "approved school" or "approved massage school" as such term is defined and applied in the California Business and Professions Code section 4600, *et seq.*

R. "Sole proprietorship" means a massage business where the owner owns 100 percent of the business, is the only person who provides massage services for compensation for that business pursuant to a valid and active certificate issued in accordance with this chapter, and has no other employees or independent contractors.

S. "Solicit" means to request, ask, demand or otherwise arrange for the provision of services.

4.32.010 Exemptions.

This chapter shall not be applicable to, or include, the following:

A. Physicians, surgeons, chiropractors, osteopaths, nurses, athletic trainers or any physical therapists who are duly licensed to practice their respective professions in the State of California and persons

working directly under the supervision, or at the direction, of such licensed persons, working at the same location as the licensed person, and administering massage services subject to review or oversight by the licensed person.

B. Barbers and beauticians who are duly licensed under the laws of the State of California while engaging in practices within the scope of their licenses, provided that such practices solely include the massaging of the neck, face and/or scalp, hands or feet of the clients.

C. Hospitals, nursing homes, mental health facilities, or any other health facilities duly licensed by the State of California, and employees of these licensed institutions, while acting within the scope of their employment.

D. Students enrolled at a recognized school of massage, provided that such students perform massage therapy only under the direct personal supervision of an instructor who holds a valid CAMTC certificate. The massage school as a business or establishment must still comply with the provisions of this chapter.

E. Any massage providers that are exempt from complying with the provisions of this chapter under State or local law.

4.32.015 Health and safety requirements.

The following health and safety requirements shall be applicable to all massage businesses within the City of Elk Grove:

A. Massage providers shall at all times be equipped with an adequate supply of clean sanitary towels, coverings, and linens. Clean towels, coverings and linens shall be stored in enclosed cabinets or containers marked "Clean Linen." Towels and linens shall not be used on more than one (1) client, unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one (1) client. Soiled linens and towels shall be deposited in separate receptacles marked "Soiled Linen."

B. Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bath rooms, tanning booths, whirlpool baths and pools shall be thoroughly cleaned and disinfected as often as needed, but at a minimum of once each day the premises are open and/or operating, with a hospital grade disinfectant. Bathtubs shall be thoroughly cleaned after each use with a hospital grade disinfectant. All walls, ceilings, floors, and other facilities for the business must be in good repair, and maintained in a clean and sanitary condition. Instruments utilized in performing massage services shall not be used on more than one (1) client unless they are clean and have been sterilized prior to use on the client, using sterilization methods that ensure the sanitation of the instruments.

C. No person shall enter, be, or remain in any part of a massage establishment while in possession of an open container of alcohol without the massage establishment possessing proper licensing through the California Department of Alcoholic Beverage Control. No person shall enter, be, or remain in any part of

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a massage establishment while in possession of controlled substances, except pursuant to a valid prescription for such medications. The owner, manager, or responsible managing employee shall not permit any such person in violation of this subsection to enter or remain upon the premises of the massage establishment.

D. Massage establishments shall provide clients with adequate dressing, locker and toilet facilities. All locker facilities that are provided for the use of clients shall be fully secured for the protection of the clients' valuables, and clients shall be given control of the key or other means of access.

E. A minimum of one (1) wash basin for employees shall be provided at all times. The basin shall be located within, or as close as practicable to, the area devoted to performing massage services. Sanitary towels shall be provided at each basin.

F. All liquids, creams, and other preparations used for, or made available to clients, at the massage establishment shall be maintained in clean, sanitary and closed containers. Powders may be kept in clean shakers. All bottles and containers shall be distinctly and correctly labeled to disclose their contents. When only a portion of a liquid, cream or other preparation is to be used on or made available to the client, it shall be removed from the container in such a way as not to contaminate the remaining portion or otherwise introduce bacteria or other matter.

G. Beds, floor mattresses, waterbeds and similar furnishings are not permitted on the premises of any massage business. This subsection shall not apply to a private residence or multi-unit temporary or permanent dwelling such as apartments or hotels, except as otherwise prohibited by state or local laws.

H. Standard or portable massage tables must be used with a durable, washable plastic or other waterproof material as a covering. The massage tables must be positioned so that there is at least three (3) feet from the nearest wall to each side to allow access to the table on all sides. Foam pads more than four (4) inches thick or more than four (4) feet wide may not be used.

I. All massage providers shall thoroughly wash their hands with soap and water or any equally effective cleansing agent immediately before providing massage to a client. No massage shall be provided upon a surface of the skin or scalp of a client where such skin is inflamed, broken (e.g., abraded, cut) or where a skin infection or eruption is present.

J. No person afflicted with an infection or parasitic infestation capable of being transmitted to a client shall remain on the premises of a massage establishment while so infected or infested. Infections or parasitic infestations capable of being transmitted to a client include, but are not limited to: (1) cold, influenza or other respiratory illness which may or may not be accompanied by a fever, for seven days after illness onset or until twenty-four hours after the cessation of symptoms, whichever is longer; (2) streptococcal pharyngitis ("strep throat"), until twenty-four hours after treatment has been initiated and twenty-four hours after the cessation of symptoms; (3) purulent conjunctivitis ("pink eye"), until examined by a physician and approved for return to work; (4) pertussis ("whooping cough"), until five

days of antibiotic therapy has been completed; (5) varicella (“chicken pox”), until the sixth day after onset of rash or sooner if all lesions have dried and crusted; (6) mumps, until nine days after onset of parotid gland swelling; (7) tuberculosis until a physician or local health department authority states that the person is noninfectious; (8) impetigo (bacterial skin infection), until twenty-four hours after treatment has begun; (9) pediculosis (“head lice”), until there is no further infestation; and (10) scabies (“crabs”), until after treatment has been completed. Blood-borne diseases, such as HIV/AIDS and hepatitis B (HBV), shall not be considered infectious or communicable diseases for the purpose of this subsection.

K. No person or persons shall be allowed to live inside a massage establishment at any time. All living quarters shall be separate from the massage establishment. This subsection shall not apply to a private residence or multi-unit temporary or permanent dwelling such as apartments or hotels, except as otherwise prohibited by state or local laws.

4.32.020 Operating requirements.

The following operating requirements shall be applicable to all massage businesses within the City of Elk Grove:

A. Massage businesses shall only employ and/or retain persons to conduct massage services who are Certified Massage Therapists or Certified Massage Practitioners with an active and valid certificate issued by the CAMTC.

B. CAMTC certification shall be displayed and clearly visible on the massage provider’s person during working hours and at all times when the massage is being administered at a massage establishment or during an outcall massage.

C. Massage services shall be provided or given only between the hours of 8:00 a.m. and 10:00 p.m., unless the Chief of Police determines shorter hours of operation are necessary as a condition of any special business license in order to protect the health, safety and general welfare of the public. No massage establishment shall be open and no massage service shall be provided between 10:00 p.m. and 8:00 a.m. All massage services shall terminate by 10:00 p.m. For massage services provided within a massage establishment, all clients must exit the massage establishment by 10:00 p.m. Massage providers must inform clients of the requirement that services must cease, and the premises vacated, by no later than 10:00 p.m. each day. For massage establishments, the hours of operation must be posted so that they are clearly visible from the outside of the massage establishment.

D. A list of the services available and the cost of such services shall be posted in the reception area within the massage establishment, and shall be described in English and other such languages as necessary to communicate services to clients. No massage business shall permit any employee to offer, solicit or perform, any service other than those posted or listed as required herein, nor shall a massage

business permit an employee to request or charge a fee for service other than the fee stated on the list of services.

E. Each massage business shall be managed at all times by an employee of the massage business who is familiar with the requirements of this chapter, and capable of communicating the provisions of this chapter to clients and persons employed or retained by the massage business. The massage business shall post, on a daily basis and in a conspicuous place in the reception area, the name of the manager on duty. A massage business shall not be deemed "managed" as required by this subsection unless the manager has the authority and responsibility to supervise persons employed or retained by the massage business to perform services and to supervise the delivery of massage services.

F. Every massage business must maintain a register, in writing, of all employees of the massage business. The register must contain the full legal names of all employees of the massage business, and include any aliases and assumed names used, home addresses, birth dates, telephone numbers, dates of employment and termination, if any, and the duties of each person. A complete register of all required information must be maintained at the massage business at all times in English, and retained for a period of at least two (2) years following an employee's separation from the massage business. The register must be available by the massage business for inspection by representatives of the City during regular business hours.

G. A copy of the CAMTC certificate of each and every massage provider employed by the business shall be displayed in the reception area or similar open public place on the premises.

H. For each massage provided, every massage business shall keep a complete and legibly written record in the English language of the following information: (1) the date and hour that service was provided; (2) the service(s) received; (3) the name of the employee entering the information; and (4) the name of the employee administering the massage. Such records shall be available for inspection by representatives of the City. Such records shall be retained by the massage business for a period of two (2) years from the date the adult-related service was provided.

I. It shall be unlawful for a massage business to employ or retain any person who is under eighteen (18) years of age to perform any service on or off the premises of the massage business, or in relation to the massage business.

J. Massage businesses shall not permit employees to dress while engaged in the practice of massage for compensation, or while visible to clients in a massage establishment, in any of the following: (1) attire that is transparent, see-through, or substantially exposes the employee's undergarments, (2) swim attire, if not providing a water-based massage modality approved by the CAMTC, (3) a manner that exposes the employee's breasts, buttocks, or genitals, (4) a manner that constitutes a violation of Section 314 of the California Penal Code, and/or (5) a manner that is otherwise deemed by the CAMTC to constitute unprofessional attire based on the custom and practice of the profession in California.

K. No massage business shall place, publish or distribute, or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective clients that any service is available other than those services listed as an available service pursuant to this chapter, nor shall any massage business employ language in the text of such advertising that would reasonably suggest to a prospective client that any service is available other than those services listed as an available service pursuant to this chapter.

L. Massage businesses must require and ensure its clients' genitals and female breasts are draped at all times while receiving massage services and/or while in the presence of an employee.

M. No massage shall be provided in a massage establishment within any interior cubicle, booth, or other area which is fitted with a door capable of being locked. The massage establishment's exterior doors and the doors separating the reception area from the remainder of the premises must remain unlocked during business hours unless the massage establishment is a business entity owned by one individual with one or no employees or independent contractors.

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

O. Lighting consisting of at least one (1) artificial light of not less than 450 lumens shall be provided and shall be operating in each room or enclosure where massage services are being performed on clients, and in all areas where clients are present.

P. All massage establishments shall comply with all state and federal laws and regulations for clients with disabilities.

Q. A massage business shall only permit its massage providers to operate under the name specified in his or her CAMTC certificate. A massage business shall operate only under the name specified in its special business license.

R. All signs shall be in conformance with the Elk Grove Municipal Code.

S. The massage business shall not permit its employees to use any electrical, mechanical, or artificial device for audio and/or video recording or for monitoring the services or conversation or other sounds inside the massage establishment without first obtaining and the informed, express written consent of the client.

T. It is a violation of this chapter for any of the following to occur at a massage business: (1) unprofessional conduct, including, but not limited to, any of the following: (A) engaging in sexually suggestive advertising related to massage services; (B) engaging in any form of sexual activity on the

premises of a massage establishment where massage is provided for compensation, excluding a residence, (C) engaging in sexual activity while providing massage services for compensation, (D) a massage provider practicing massage on a suspended CAMTC certificate or practicing outside of the conditions of a restricted CAMTC certificate, (E) providing massage of the genitals or anal region, (F) 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.

U. The massage business shall not permit its employees, after the commencement of any massage service, to advise, suggest or otherwise indicate to the client that any additional service is available, unless the service is included as a service publicly posted in compliance with this chapter.

V. The massage business shall not permit its employees to perform any service for any client that was not ordered by such client prior to the commencement of performance of any service requested.

W. No act of prostitution, as that term is defined in the California Penal Code, or any other sexual activity involving a massage provider shall occur while providing massage.

4.32.025 Inspection by government officials.

All massage businesses shall permit representatives of City to conduct a reasonable inspection of the public areas of and areas otherwise open to plain view on or within the premises, to the extent allowed by law, during the regular business hours of the massage business, for the purpose of ensuring compliance with State and local law, including, but not limited to compliance with the requirements of this chapter and other applicable fire and health and safety requirements.

Article II. Licenses and State Certification

4.32.100 State certification required.

A. Unless exempt under Section 4.32.010, no person shall practice massage within the City of Elk Grove without a valid, unexpired, unsuspended and unrevoked CAMTC certification issued for a Certified Massage Therapist or Certified Massage Practitioner.

B. No person shall own, conduct or operate a massage business, including, without limitation, an outcall massage service and massage establishment, without requiring that all persons practicing massage in, for, or on behalf of the massage business possess a valid, unexpired, unsuspended and unrevoked CAMTC certificate.

4.30.105 Special business license required.

It shall be unlawful for any person to operate or conduct a massage business unless under and by authority of a valid, unexpired, unsuspended and unrevoked special business license issued pursuant to the provisions of EGMC Chapter 4.10 and this Chapter.

4.30.110 Display of license.

A. Each massage business shall display the special business license in a conspicuous place so that it may be readily seen by persons entering the premises.

B. Massage businesses engaged in out-call massage services shall provide each of its employees with a copy of the massage business' special business license and shall require that the employee have the special business license available for inspection at all times while providing out-call massage services.

4.30.115 License application.

A. In addition to the matters prescribed by EGMC Section 4.10.030, an application for a massage business special business license shall contain the following:

1. Legal name of the massage business;
2. Address and telephone number of the massage business;
3. The form of business under which the massage business will be operating (i.e., corporation, general or limited partnership, sole proprietorship, or other form);
4. Legal names of all owners of the massage business;
5. Residence addresses and telephone numbers for all owners of the massage business;
6. Business address and telephone number of all owners of the massage business;
7. Each owner of the massage business who is CAMTC certified shall submit a copy of their CAMTC certification;
8. The owner's business, occupation, and employment history for the five years preceding the date of the application; the inclusive dates of such employment history; the name and address of any business owned or operated by the individual whether inside or outside the City and;
9. For all owners, a copy of a valid and current driver's license and/or identification issued by a State or Federal governmental agency or other photographic identification bearing a bona fide seal by a foreign government;
10. For all owners, a signed statement that all of the information contained in the application is true and correct, that all owners shall be responsible for the conduct of the business' employees providing services for the massage business, and acknowledgment that failure to comply with any local, State, or Federal law may result in suspension or revocation of the business' special business license;
11. A list of each conviction of each owner applicant. The list shall, for each such conviction, set forth the date of arrest, the offense charged and the offense in which the applicant was convicted;

B. Each owner of the massage business who is not also CAMTC certified shall submit to a criminal history background check.

C. The Chief of Police may require the massage business in its application for a special business license, or for the renewal of a special business license, to provide relevant information of the activities of the massage business regulated by this chapter

D. No application for a massage special business license shall be accepted within one year from the date the same applicant's special business license application or renewal has been denied, or a special business license has been suspended or revoked. Notwithstanding the forgoing, if a special business license is denied for the sole reason that a massage provider does not possess a valid and current CAMTC certificate, reapplication may occur after the necessary CAMTC certification has been attained.

E. For a period of one year commencing as of the date the special business license was suspended and/or revoked, no massage business shall be licensed or otherwise established at a location where a massage business operating at the same location had its special business license suspended and/or revoked.

4.32.120 Revocation or suspension of special business license.

A. Notwithstanding chapter 4.10, the Chief of Police may deny, revoke, restrict or suspend a special business license if any owner, employee, or other representative of the massage business has committed a violation of this chapter, of Section 4600 et seq. of the California Business and Professions Code, or of any other applicable law.

4.32.125 Employee reporting required.

A. A massage business special business license licensee must notify the Chief of Police, in writing, of the name, address, and CAMTC certification number of each massage provider serving as an employee of the massage business within five (5) business days of that person being employed at the massage business.

B. A massage business special business license licensee must notify the Chief of Police, in writing, of the name and CAMTC certification number of each massage provider who is no longer an employee of the massage business, within five (5) business days of that person no longer being employed at the massage business.

C. A massage business special business license licensee must immediately notify the Chief of Police, in writing, of the occurrence of any event involving the licensee's massage business, including, without limitation, an event involving an employee, that may constitute a violation of any local, State or Federal Law.

4.32.130 Owner responsibility.

For the purpose of enforcement of the requirements of this chapter, all owners of the massage business shall be responsible for the conduct of persons employed by the massage business while on the premises of the massage establishment and while otherwise providing massage services on behalf of the massage business.

4.32.135 Employee permit required.

A. Except for Certified Massage Therapists and Certified Massage Practitioners, all employees of a massage business must possess a valid, unexpired, unsuspended and unrevoked employee permit issued pursuant to the provisions of EGMC chapter 4.10 and this chapter.

B. It shall be unlawful for the owner of a massage business to employ or retain a person as an employee of the massage business who is required to, but does have, a valid, unrevoked, unsuspended employee permit issued by the City of Elk Grove.

C. Each employee of a massage business that possesses an employee permit must have their employee permit available for inspection at all times during working hours when working on behalf of the massage business.

4.32.140 Permit application.

In addition to the matters prescribed by EGMC Section 4.10.080, an application for an employee permit shall contain the following:

1. The applicant's business, occupation and employment history for the five years preceding the date of the application; the inclusive dates of such employment history; the name and address of any business owned or operated by the applicant whether inside or outside the City.
2. A copy of a valid and current driver's license and/or identification issued by a State or Federal governmental agency or other photographic identification bearing a bona fide seal by a foreign government;
3. A list of each criminal conviction of each owner applicant. The list shall, for each such conviction, set forth the date of arrest, the offense charged and the offense in which the applicant was convicted.

4.30.145 Permit issuance.

Upon receipt of an application for an employee permit for a massage business, the Chief of Police shall conduct an investigation pursuant to EGMC Section 4.10.085. In addition to the provisions of EGMC 4.10.090, the Chief of Police shall issue the employee permit unless he or she finds any of the following:

1. That the application fails to contain information required by the Chief of Police or EGMC Section 4.32.140, or is otherwise incomplete;

2. That information contained in the application is false or otherwise inaccurate;

3. That the applicant has been convicted of a crime and the time for appeal has elapsed, or when an order granting probation is made suspending the imposition of sentence, irrespective of the entry of a subsequent order under Section 1203.4 of the California Penal Code; or has done any act involving dishonesty, fraud or deceit with intent to substantially benefit himself or herself, or another, or substantially injure another; and the Chief of Police concludes that by reason of the crime or act there is a substantial risk that the applicant would not perform his or her duties in a law-abiding manner or in a manner which would not subject patrons to risk of harm or criminal, deceitful or otherwise unethical practices.

Notwithstanding the foregoing, an application shall not be denied solely on the basis that a person has been convicted of a felony if the person has obtained a certificate of rehabilitation under Section 4852.01, et seq., of the California Penal Code, or that the person has been convicted of a misdemeanor if the person has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering the denial of a license under Section 482(a) of the California Penal Code;

4.30.150 Revocation of permits.

In addition to any other grounds for revocation set forth in Title 4 of the Elk Grove Municipal Code, an employee permit may be revoked or suspended pursuant to EGMC Section 4.10.140 upon a finding of any of the following grounds:

1. Violation of any of the duties, requirements or prohibitions set forth in the Elk Grove Municipal Code or other applicable law.
2. Misrepresentation of a material fact contained in the application for the employee permit; or
3. That since issuance or renewal of the employee permit, the Chief of Police has acquired information supporting a finding prescribed by EGMC Section 4.30.145 in relation to the holder of the permit.

4.32.155 Time for compliance.

A. Massage businesses that employ massage providers, and have a valid, unsuspended and unrevoked special business license and/or employ massage providers who have valid and unrevoked employee permits but who do not possess CAMTC certificates, shall have until July 1, 2015, to comply with the requirements of this chapter. Upon presentation by the special business license licensee of satisfactory evidence that its employee(s) is/are actively applying to CAMTC for their necessary certificates, the Chief of Police may extend the compliance period for an additional period not to exceeding twelve months at his or her sole discretion.

B. Massage businesses that engaged employees to practice massage during the compliance period without a CAMTC certificate shall:

1. Comply with all other applicable State and local law;
2. Present to the Chief of Police satisfactory evidence that the subject employees have applied for their CAMTC certificate and are working diligently to complete their application; and
3. The massage business is not engaging employees that are required to register as a sex offender under California Penal Code Section 290, have any record or conviction for violation of California Penal Code Sections 266i (pandering), 315 (keeping or residing in a house of ill-fame), 316 (keeping house of prostitution), 318 (prevailing upon person to visit place for gambling or prostitution), 647(b) (prostitution), 653.23 (supervision of prostitute) or any sex or illegal substance related offense, or similar provisions in other jurisdictions.

C. Notwithstanding the time for compliance stated in this subsection, all other provisions of this chapter shall be deemed enforceable from the effective date of this chapter.

**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 07-2015**

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing ordinance, published and posted in compliance with State law, was duly introduced on March 25, 2015 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on April 8, 2015 by the following vote:

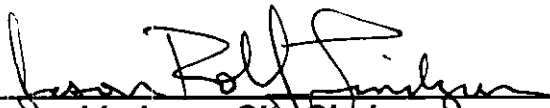
AYES : **COUNCILMEMBERS:** *Davis, Hume, Detrick, Ly, Suen*

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN: **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *None*

A summary of the ordinance was published pursuant to GC 36933(c) (1).



**Jason Lindgren, City Clerk
City of Elk Grove, California**