

Title 5

BUSINESS TAXES, LICENSES AND REGULATIONS

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Chapter 5.52

MASSAGE

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Section 5.52.010 Findings and Purpose.

The City Council finds and declares as follows:

A. The requirements and restrictions imposed by this Chapter are reasonably necessary to protect the health, safety and welfare of the citizens of the City.

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

C. There is opportunity for acts of prostitution, lewdness, and other unlawful sexual activity to occur in massage establishments. Courts have long recognized massage as a pervasively regulated activity and that massage establishments are often brothels in disguise. The establishment of reasonable standards would serve to reduce the risk of illegal activity and would thereby benefit the public health.

D. The regulations and restrictions contained in this Chapter are intended to discourage massage establishments from degenerating into houses of prostitution, and the means utilized in this Chapter bear a reasonable and rational relationship to the goals sought to be achieved within the confines allowed by state law.

E. Assembly Bill 1147 gives broad control over regulating massage establishments to local governments so that they may manage those establishments in the best interest of the individual community. Consistent with this state law, this ordinance seeks to allow legitimate therapeutic massage services to flourish, while discouraging unlawful sexual activity and human trafficking associated with prostitution. (Ord. 7326 § 2, 2016; Ord. 7121 § 1, 2011; Ord. 4109 § 1 (part), 1974)

Section 5.52.020 Definitions.

For the purposes of this Chapter, the following words, items and phrases shall have the meaning given herein:

"Accredited Recognized School" means an "approved school" or "approved massage school" as defined in California Business and Professions Code Section 4600(a).

"California Massage Therapy Council" means the organization that provides voluntary statewide certification of Massage Therapists pursuant to California Business and Professions Code Section 4601(c), and to Massage Practitioners pursuant California Business and Professions Code Sections 4601(b), 4604(a), and 4604(c).

"Chief of Police" means the Chief of Police of the City of Riverside or his/her designee.

"City" means City of Riverside.

"Compensation" means the payment, loan, advance, donation, contribution, deposit, exchange or gift or money, or anything of value.

"Crime" means a crime or public offense as defined under Penal Code Section 15 and 16 or offense under a local ordinance.

"Effective Date" means thirty (30) after the second reading of this Chapter by City Council.

"Employee" means any person who renders any service, including offers to, soliciting, or performing any type of massage, with or without compensation, to a massage establishment relating to the day-to-day operation of the massage establishment. This shall include independent contractors and unpaid volunteers.

"Massage" means any method of treating the external parts of the body for remedial, hygienic, relaxation or any other reason or purpose, whether by means of pressure or friction against, or stroking, kneading, tapping, pounding, vibrating, rubbing or other manner of touching external parts of the body with the hands, with or without the aid of any mechanical or electrical apparatus or appliance or with or without supplementary aids such as rubbing alcohol, liniment, antiseptic, oil, powder, cream, ointment or other similar preparations commonly used in this practice. Massage does not include massaging the part of the body from the knee down to the toes or from the elbow down to the fingertips.

"Massage establishment" means any establishment having a fixed place of business where any person engages in, conducts, or carries on, or permits to be engaged in, conducted or carried on, massage.

"Massage technician" is a person who offers to or solicits to perform a massage for compensation, holds himself or herself out to be a person who performs massage, or who actually performs a massage for compensation. A Massage Technician includes a Massage Practitioner as defined in Business and Professions Code section 4604.2.

"Owner" means any person or entity having an ownership interest in the Massage Establishment.

"Property" means the entire parcel of property on which the massage establishment is located not just a separate unit or suite.

"Service of Notice" is governed by Riverside Municipal Code Chapter 1.17.

"Sex Offenses" means an offense involving unlawful sexual conduct, such as prostitution, indecent exposure, pimping, sexual assault, sexual battery, and other similar offenses.

"State certificate" means a massage therapist certificate or massage practitioner certificate issued by the California Massage Therapy Council ("CMTA").

"Surrender" also means revocation.

(Ord. 7372 § 2, 2017; Ord. 7326 § 3, 2016; Ord. 7121 § 1, 2011; Ord. 4109 § 1 (part), 1974)

Section 5.52.030 Exceptions.

A. The requirements of this Chapter shall have no application and no effect upon and shall not be construed as applying to:

1. Any physician, surgeon, chiropractor, acupuncturist, osteopath, or physical therapist licensed to practice such profession in the state of California.

2. Any registered nurse or licensed vocational nurse, licensed to practice under the laws of the state of California, who is an employee of and working under the on-site direction of a physician, surgeon, chiropractor, acupuncturist, osteopath, or physical therapist, duly licensed to practice their respective professions in this state. No other person employed by a physician,

surgeon, chiropractor, osteopath, acupuncturist, or physical therapist, shall administer a massage without having first obtained a valid state certificate.

3. Any person licensed to practice any healing art under the provisions of Division 2 (commencing with Section 500) of the Business and Professions Code when engaging in such practice within the scope of such license.

4. State-licensed hospitals, nursing homes, sanatoriums, or other health care facilities duly licensed by the state of California, and the employees of such facilities while working on the premises of such state-licensed facilities.

5. Accredited high schools, junior colleges, and colleges or universities whose coaches and trainers are acting within the scope of their employment.

6. Barbers, beauticians, or manicurists who are duly licensed by the state of California pursuant to the Barbering and Cosmetology Act set forth in Business and Professions Code Section 7300 et seq., as the same may be amended from time to time, while engaging in practices within the scope of such license, except that this exemption applies solely for the massaging of the neck, face, and/or scalp of the customer or client of said barber or beautician or, in the case of a licensed manicurist, the massaging of the forearms, hands, calves, and/or feet.

7. Schools of cosmetology or barbering which comply with the requirements of Business and Professions Code Section 7362 et seq. when instructors are acting within the scope of their employment or when students are working as unpaid externs pursuant to the requirements of Business and Professions Code Section 7395.1.

8. Any other business or professions exempt by state law.

B. Businesses that offer ancillary massage services are exempt from this Chapter, subject to the requirements set forth below. Ancillary massage services shall be those services performed at a business where fifteen percent or less of the overall business operations are related to provision of massage services as measured by the percentage of gross sales or floor area devoted to provision of massage, whichever is greater, as documented to the Police Department. Businesses to which this exemption may apply include, but are not limited to, health clubs, spas and beauty salons.

1. Ancillary massage services must be performed by the holder of a valid certificate of registration or state certificate.

2. Ancillary massage services must comply with Section 5.52.070 relating to health and safety requirements and Section 5.52.080 relating to prohibited conduct. (Ord. 7121 § 1, 2011; Ord. 4109 § 1 (part), 1974)

Section 5.52.040 Massage establishment permit required.

A. No person shall own, operate, or manage any massage establishment in any location within the City without first having obtained a massage establishment permit.

B. Any person desiring a massage establishment permit shall file, under penalty of perjury, a written application on forms provided by and submitted to the Chief of Police accompanied by a non-refundable application fee in such amounts established by resolution of the City Council.

C. The application shall be completed and signed by the owner of the proposed massage establishment, if a sole proprietorship; one general partner, if the owner is a partnership; or two officers, if the owner is a corporation. The application shall be deemed complete if it contains or is accompanied by the following information:

1. A description of the type of ownership of the business (i.e., whether by individual, partnership, corporation or otherwise). If the applicant is a corporation, the application shall include the names and residence addresses of each of its current officers and directors. An applicant corporation or partnership shall list the names and residence addresses of each of its officers or partners.

2. A detailed description of all services to be provided at the massage establishment.

3. The proposed business name.

4. The complete address and all telephone numbers of the massage establishment.
5. A complete list of the names and residence addresses of all proposed massage technicians and other employees in the massage establishment with a description of the job duties or function of each. In the event of corporate ownership, the applicant must also include the name and residence addresses of the responsible employee to be principally in charge of the day-to-day operations of the massage establishment.
6. Copies of valid certificates of registration or state certificates for each massage technician to be working at the massage establishment.
7. A description of any other business owned or operated by the applicant within the State of California.
8. The following personal information concerning every owner:
 - a. Full complete name and all aliases used;
 - b. Current residence address and residential addresses for five (5) years immediately preceding the present address, and the inclusive dates for each such address;
 - c. Acceptable proof that every owner is at least eighteen (18) years of age;
 - d. The complete business, occupation and employment history for five (5) years preceding the date of application, including, but not limited to, the massage or similar business history and experience;
 - e. The complete permit history including, but not limited to, massage or similar business; whether such person has ever had any permit or license issued by any agency, board, city, county, territory or state; the date of issuance of such a permit or license; whether the permit or license was denied, revoked or suspended; or whether a vocational or professional license or permit was denied, revoked or suspended, and the reason (s) therefor;
 - f. A complete set of the applicant's fingerprints taken by the Riverside Police Department. The applicant shall be responsible for payment of any fingerprinting fee;
 - g. Date of birth and original documentation to verify both the applicant's identity and employment authorization (if applicable), as listed under 8 U.S.C. Section 1324a(b)(1) and 8 C.F.R. Section 274a.2(b)(1);
 - h. All criminal convictions, including pleas of nolo contendere, within the last ten (10) years, including those dismissed pursuant to Penal Code Section 1203.4, and the date and place of each such conviction and reason and sentence therefore; and
 - i. All pending criminal charges for which the applicant is currently out on bail or on his/her own recognizance pending trial.
9. The name and address of the owner and lessor of the real property upon or in which the business is to be conducted. If the applicant is not the property owner, the application must be accompanied by an acknowledgment from the property owner that a massage establishment will be located on the property.
10. The name and address of any massage establishment or other business wherein massages are administered which is owned or operated by any individual applicant.
11. Such other identification and information as the Chief of Police may require to verify the truth of the matters set forth in the application.
12. A statement in writing and dated by the applicant certifying under penalty of perjury that all information contained in the application is true and correct.
- D. Each permit issued under this section shall expire one year from the date of issuance.
- E. An unrevoked permit may be renewed for one year by filing, under penalty of perjury, a written application on forms provided by and submitted to the Chief of Police, accompanied by a non-refundable renewal fee in such amounts established by resolution of the City Council.
- F. A permit required under this section shall be in addition to any license, permit or fee required under any other Chapter of this Code.
- G. A permit holder shall notify the Chief of Police whenever there is a change in information that was required to be submitted in the application. Such notification shall be in writing and made within ten business days of the change.

H. The Chief of Police shall complete an investigation of the qualifications and moral character of the applicant and either grant or deny the permit within ninety (90) days after the submission of the completed application; provided, however, if good cause exists, the Chief of Police may extend the period of investigation for an additional thirty (30) days, provided the applicant is mailed notification or verbally notified that the investigation has not been completed. (Ord. 7121 § 1, 2011; Ord. 6477 §1, 1999; Ord. 6290 § 1, 1996; Ord. 4109 § 1 (part), 1974)

Section 5.52.050 Refusal to issue massage establishment permit.

A. The Chief of Police may not issue or allow a transfer of a massage establishment permit to an applicant under any of the following conditions.

1. The applicant fails to or refuses to furnish the information or documents required by this Chapter or submits false, misleading, or incomplete information on the application.

2. The massage establishment does not comply with the minimum requirements set forth in this Chapter or with the City's building fire, health and zoning regulations.

3. The operation of the massage establishment will not comport with the peace, health, safety, convenience, good morals, and general welfare of the public.

4. The applicant has been convicted of any of the following offenses, unless the Chief of Police finds the offense was so remote in time and that the applicant has been rehabilitated:

a. A sexually-related crime, including but not limited to California Penal Code Sections 266h, 266i, 314, 315, 316, 318, 647(a), 647(b), and 647(d);

b. A crime involving dishonesty, fraud, deceit, or moral turpitude;

c. A crime committed while engaged in the ownership or operation of a massage establishment or the practice of massage;

d. Health and Safety Code Section 11550 or any crime involving the illegal sale, distribution or possession of a controlled substance specified in Health and Safety Code Section 11054, 11055, 11056, 11057 or 11058;

e. Any crime involving conduct reasonably related to the occupation being regulated;

f. Attempt to commit or conspiracy to commit any of the above mentioned offenses;

or

g. Any crime in any other state which is the equivalent of or substantially similar to any of the above mentioned offenses.

5. The applicant has been subjected to a permanent injunction against the conducting or maintaining of a nuisance pursuant to Sections 11225 through 11235 of the California Penal Code, or any similar provisions of law in a jurisdiction outside the State of California.

6. The applicant has had a massage establishment permit or other similar license or permit denied, suspended or revoked for cause by any city, county, state, local agency, or other licensing authority, or has had to surrender a permit or license as a result of pending criminal charges or in lieu of said permit or license being suspended or revoked.

7. Pursuant to any provision set forth in Section 5.52.145 of this Chapter.

B. Denial of a massage establishment permit shall be given to the applicant in writing and shall specify the grounds for such denial. Notice of the denial shall be deemed to have been served upon personal service or when deposited in the United States Mail with postage prepaid and addressed to the applicant at the address listed on the application. Such refusal to issue a permit may be appealed to the City Council's Public Safety Committee pursuant to Section 5.52.140 of this Chapter. (Ord. 7326 § 4, 2016; Ord. 7121 § 1, 2011; Ord. 6477 § 1, 1999; Ord. 4109 § 1 (part), 1974)

Section 5.52.060 Requirements for massage establishments.

A. Every massage establishment and owner shall:

1. Notify the Chief of Police whenever there is a change in information which was required to be submitted in the application. Such notification shall be in writing and made within ten business days of the change.
 2. Display the original state certificate for all massage technicians employed at the massage establishment in an open and conspicuous location.
 3. Display the original, valid, massage establishment permit issued by the City pursuant to this Chapter in an open and conspicuous location.
 4. Provide massage in compliance with Sections 5.52.070 of this Chapter.
 5. Provide massage in compliance with Sections 5.52.080 of this Chapter.
 6. Procure a business tax certificate from the City.
 7. Provide the Chief of Police with a copy of a valid state certificate for every person who is employed or retained by the massage establishment to provide massage within thirty (30) calendar days of the commencement of such person's period of employment.
 8. Not permit persons to be working on the premises who have been convicted of an offense enumerated in 5.52.050(A)(4)(a-g) during hours open to the public.
 9. Comply with all federal, state, and local laws and cooperate with the Riverside Police Department in the enforcement of all laws in connection with the operation of the business.
 10. Only operate during the business hours from 8:00 a.m. to 10:00 p.m.
- B. The City may conduct reasonable inspections, during regular business hours, to ensure compliance with Chapter 10.5 of the Business and Professions Code, this Chapter and other section of the Riverside Municipal Code, and other applicable fire and health and safety requirements. An owner or employee may not refuse to permit such lawful inspection of the premises at any time it is occupied or open for business.
- C. In addition to any other provisions in this Chapter, all owners of the massage establishment shall be responsible for the conduct of all of its employees while the employees are on the premises of the massage establishment. (Ord. 7372 § 3, 2017; Ord. 7326 § 5, 2016; Ord. 7121 § 1, 2011; Ord. 6749 § 1, 2004; Ord. 6477 § 1, 1999; Ord. 4109 § 1 (part), 1974)

Section 5.52.070 Health and safety requirements.

No massage establishment, owner, massage technician, or employee shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, the operation of a massage establishment unless each and all of the following requirements are met.

- A. Minimum lighting equivalent to at least one forty-watt light shall be provided in each room.
- B. Hot and cold running water shall be provided at all times.
- C. Closed cabinets shall be provided and shall be utilized for the storage of clean linen.
- D. Adequate dressing, locker, and toilet facilities shall be provided for patrons.
- E. All physical facilities must be in good repair and maintained in a clean and sanitary condition.
- F. Clean and sanitary towels, coverings, and linens shall be provided for patrons. No common use of towels, coverings, or linens shall be permitted. All massage tables shall be covered with a clean sheet or other clean covering for each patron. After a towel, covering or linen has once been used it shall be deposited in a closed receptacle and not used until properly laundered and sanitized. Towels, coverings and linens shall be laundered either by regular commercial laundering or by a noncommercial laundering process which includes immersion in water at least 140 degrees Fahrenheit for not less than fifteen (15) minutes during the washing or rinsing operation. Clean towels, coverings and linens shall be stored in closed, clean cabinets when not in use.
- G. Any locker facilities that are provided for the use of patrons shall be fully secured for the protection of the patron's valuables, and the patron shall be given control of the key or other means of access.

H. All liquids, creams, or other preparations used on or made available to patrons shall be kept in clean 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 a patron, it shall be removed from the container in such a way as not to contaminate the remaining portion.

I. No invasive procedures shall be performed on any patron. Invasive procedures include, but are not limited to: (1) application of electricity which contracts the muscle; (2) application of topical lotions, creams, or other substances which affect living tissue, such as chemical peel preparations or bleaches; (3) penetration of the skin by metal needles; (4) abrasion of the skin below the non-living, epidermal layers; (5) removal of skin by means of any razor-edged instrument or other device or tool; and (6) any needle-like instrument which is used for the purpose of extracting skin blemishes and other similar procedures.

J. All garments that are provided for the use of patrons shall be either fully disposable and shall not be used by more than one patron, or shall be laundered after each use.

K. No patrons shall be allowed to use any shower facilities of the massage establishment unless such patrons are wearing slip-resistant sandals or flip-flops while in the shower compartment. All footwear such as sandals or flip-flops that are provided for the use of patrons shall be either fully disposable and shall not be used by more than one patron, or shall be fully disinfected after each use.

L. The patron's genitals, pubic area, anus, and female patron's breasts below a point immediately above the top of the areola must be fully draped at all times while any employee of the massage establishment is in a room with the patron.

M. All owners, massage technicians, and employees shall be clean and wear clean and sanitary outer garments at all times. All outer garments shall be of a fully opaque, nontransparent material and provide complete covering from at least the mid-thigh to two (2) inches below the collarbone. The midriff may not be exposed.

N. All owners, massage technicians, and employees shall thoroughly wash their hands with soap and water or any equally effective cleansing agent immediately before providing massage to a patron. Massage shall not be provided upon a surface of the skin or scalp of a patron where such skin is inflamed, broken (e.g., abraded, cut) or where a skin infection or eruption is present.

O. No person afflicted with an infection or parasitic infestation capable of being transmitted to a patron shall knowingly provide Massage Therapy to a patron, or remain on the premises of a massage establishment while so infected or infested. Infections or parasitic infestations capable of being transmitted to a patron include, but are not limited to: (1) cold, influenza or other respiratory illness accompanied by a fever, until 24 hours after resolution of the fever; (2) streptococcal pharyngitis ("strep throat"), until 24 hours after treatment has been initiated and 24 hours after resolution of fever; (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 24 hours after treatment has begun; (9) pediculosis (head lice), until the morning after first treatment; and (10) scabies ("crabs"), until after treatment has been completed. Blood-borne diseases, such as HIV/AIDS, shall not be considered infectious or communicable diseases for the purpose of this paragraph.

P. No person other than that person receiving a massage and the massage technician shall be within a room in a massage establishment wherein a massage is being given.

Q. Records shall be maintained which includes the date and time of each massage, the name and address of the patron, the name of the person administering such massage, and the type of massage given. In addition, each massage establishment shall maintain a current list of all massage therapists and massage technicians providing massage services at said

massage establishment. Such records shall be made available, upon request, for inspection by the City.

R. A recognizable and legible sign shall be posted at the main entrance identifying the place as a massage establishment, which sign shall comply with the provisions of Title 19 of the Riverside Municipal Code. (Ord. 7326 § 6, 2016; Ord. 7121 § 1, 2011; Ord. 4109 § 1 (part), 1974)

Section 5.52.080 Prohibited conduct.

A. No massage establishments shall allow persons to practice massage who are not certified under Sections 5.52.090 or 5.52.110 and comply with this Chapter.

B. No massage establishment shall sell, serve, furnish, keep, consume, or possess alcoholic beverages in the massage establishment unless the massage establishment has a valid license to do so issued by the state of California Department of Alcoholic Beverage Control. No alcoholic beverages shall be sold, served, furnished, kept, consumed, or possessed in any room where massage is provided.

C. No owner, massage technician or other employee of a massage establishment, or any other person shall:

1. Expose the genitals, anus, or areola of any person before, during, or after a massage.
2. Touch or expose or cause to be touched, or exposed the genitals, anus, or areola of any person before, during, or after a massage.
3. Permit a patron to touch, expose, or view the genitals, anus, or areola of any person before, during, or after a massage.
4. Be employed while under the age of eighteen (18) years of age.
5. Provide a massage on a suspended or revoked state certificate.
6. Engage in sexually suggestive advertising furthering the business.
7. Engage in any form of sexual activity on the Property.

D. No massage establishment shall be used for residential or sleeping purposes. (Ord. 7372 § 4; 2017; Ord. 7326 § 7; 2016; Ord. 7121 § 1, 2011; Ord. 6863 § 1, 2006; Ord. 4109 § 1 (part), 1974)

Section 5.52.090 Valid State Certificate required.

A. No person, other than those holding valid state certificates, shall practice massage therapy in a massage establishment in the City of Riverside.

B. Upon the effective date of this Chapter, every person must obtain a valid state certificate to practice massage therapy.

C. A valid state certificate can be obtained through the California Massage Therapy Council. (Ord. 7372 § 5, 2017; Ord. 7121 § 1, 2011; Ord. 4109 § 1 (part), 1974)

Section 5.52.110 State certificate holder requirements.

A. Every state certificate holder seeking to practice massage in the City must:

1. Fourteen days prior to providing massage, provide the Chief of Police the following information:

- a. A copy of a valid certificate issued by the California Massage Therapy Council;
- b. The name and address of the massage establishment where the massage technician will be employed;
- c. The following information regarding the certificate holder: full name, including all other names used presently or in the past; date of birth; and present residence address and telephone number.

2. Notify the Chief of Police of any change in any information provided in subdivision (A)(1) of this section at least two weeks prior to the proposed change.

3. Provide massage in compliance with Sections 5.52.070 of this Chapter.

4. Provide massage in compliance with Sections 5.52.080 of this Chapter.

B. The City may make reasonable investigations into the information provided pursuant to this section. A state certificate holder may not refuse to permit such lawful inspection of the premises at any time it is occupied or open for business.

C. In addition to any other provisions in this Chapter, state certificate holders shall be responsible for their conduct while on the premises of the massage establishment or providing massage for compensation.

D. A state certificate holder shall notify the Chief of Police whenever there is a change in information which was required to be submitted in the application. Such notification shall be in writing and made within ten business days of the change.

E. Every state certificate holder shall display their original state certificate in an open and conspicuous location at the massage establishment in which they are employed. A state certificate holder shall have his or her identification certificate in his or her possession while providing massage services for compensation.

F. A state certificate holder shall notify the Chief of Police whenever there is a change in information which was required to be submitted in the application. Such notification shall be in writing and made within ten business days of the change. (Ord. 7372 § 7, 2017; Ord. 7121 § 1, 2011; Ord. 6477 §, 1999; Ord. 4109 § 1 (part), 1974)

Section 5.52.120 Badges.

A The CMTC badge shall be available so as to be readily viewed at all times while on the premises of the massage establishment. (Ord. 7372 § 8, 2017; Ord. 7326 § 8, 2016; Ord. 7121 § 1, 2011; Ord. 4109 § 1 (part), 1974)

Section 5.52.130 Revocation.

A. Subject to the procedures set forth in this section, the Chief of Police may revoke or suspend a massage establishment permit issued pursuant to this Chapter whenever any of the following has occurred:

1. The holder of an establishment permit is acting in a manner contrary to, or has violated, any of the provisions of this code.

2. The holder of an establishment permit is acting in a manner that constitutes a public nuisance.

3. The holder of an establishment permit is acting in a manner that is detrimental to the health, safety or welfare of the city or its inhabitants.

4. The holder of an establishment permit or their agents, contractors or employees has violated any laws in connection with the operation of this business or failed to cooperate with the Riverside Police Department.

5. The Chief of Police makes any of the findings that would have justified denying the application in the first instance.

B. If, in the discretion of the Chief of Police, the violation is capable of correction, then prior to revocation or suspension, a written notice shall be given to the permittee or certificate holder of the violation(s) involved to allow a period of time to correct the violation(s), which period shall not exceed five business days, at the end of which period, the police department shall conduct an inspection to determine whether the violation(s) has been corrected. If the Chief of Police determines that the violation is not capable of correction or finds that the violation(s) continues without correction, then the Chief of Police may issue a notice of revocation or suspension. Examples of a violation that will be determined by the Chief of Police to be not capable of correction include but are not limited to substantial evidence of prostitution activity on the massage establishment premises or an immediate threat to health, safety or welfare.

C. Any massage establishment permit may be revoked or suspended by the Chief of Police upon determination that the holder of the permit has directly or indirectly allowed or has violated any regulation set forth in this Chapter. To revoke or suspend a massage

establishment permit, the Chief of Police shall serve upon the holder thereof, either by personal service or by United States Mail sent to the last known address, a written notice that said permit shall be revoked or suspended on the tenth (10) day from the date of said notice. If, however, the permit holder files a timely request for a hearing as set forth below, the revocation or suspension of the permit shall be stayed pending a determination by the Chief of Police at the hearing.

D. Request for Hearing Procedures

(1) Upon personal service or mailing of said revocation or suspension notice, the massage establishment permit holder shall have ten (10) calendar days to file a written appeal to the Chief of Police of the intent to contest the proposed permit revocation or suspension. If the tenth (10) day is a weekend or Holiday, the following weekday will be the tenth (10) day. The written appeal shall state the basis for the appeal.

(2) If a timely appeal is made to the Chief of Police, the Chief of Police shall fix the time and place of the hearing to be held no less than five (5) business days and not more than fifteen (15) business days following the notice of appeal of the proposed permit revocation or suspension.

(3) The appellant shall be given notice of such hearing at least five (5) calendar days prior to the hearing. Notice may be given by personal service, mail, email or telephone.

(4) At the time and place fixed by the hearing notice, the Chief of Police shall hear testimony of all competent persons or any other evidence regarding the massage establishment permit revocation or suspension.

(5) If, from the evidence introduced at the hearing, the Chief of Police finds grounds exist for revocation or suspension of the permit, the permit shall be revoked or suspended. If, following the hearing, the Chief of Police determines no grounds exist for revocation or suspension of the permit, then the Chief of Police shall grant the appeal and no revocation or suspension shall be applied. The Chief of Police shall notify the appellant of the decision, in writing, within ten (10) calendar days following the close of the hearing.

(6) An appeal of a revoked or suspended massage establishment permit may be made pursuant to section 5.52.140 of this Chapter.

E. A revoked permit shall be immediately surrendered to the Chief of Police. (Ord. 7372 § 9, 2017; Ord. 7326 § 9, 2016; Ord. 7121 § 1, 2011; Ord. 4109 § 1 (part), 1974)

Section 5.52.140 Appeal.

A. An appeal of the Chief of Police's decision to deny, revoke, or suspend a massage establishment permit must be filed with the City Clerk, in writing, within ten (10) calendar days after denial of the application or revocation or suspension of the massage establishment permit has been served. If the tenth (10) day is a weekend or holiday, the following weekday will be the tenth (10) day. The appeal shall clearly state the applicable basis for the appeal. The City Manager shall cause the matter to be set for a hearing before an Administrative Hearing Officer to hear such matters.

B. The scope of the appeal hearing pursuant to this Section shall be limited to those issues raised by appellant in the written appeal, as submitted pursuant to subdivision (A) above.

C. Should an appeal of a denial of a massage establishment permit, or revocation or

suspension of a massage establishment permit be filed, the denial, revocation, or suspension decision made by the Chief of Police will remain in effect and no massage activity may occur on the Property until such time as the Administrative Hearing Officer has rendered a decision.

D. Notice of the date of the administrative hearing shall be given in writing. The date of the administrative hearing shall be no sooner than ten (10) days from the date when the notice of hearing is served on the appellant.

E. At the time fixed in the notice of hearing, the Administrative Hearing Officer shall review all relevant evidence and hear the testimony of all competent persons desiring to testify respecting the incident or alleged violation.

F. The general evidentiary procedures for all administrative hearings shall be governed by Chapter 1.17.130. However, evidence shall include, but is not limited to, police reports, criminal citations, photographs, videos, audio recordings, and the like.

G. At the conclusion of the hearing, the Hearing Officer shall determine whether the appellant violated Chapter 5.52 of the Riverside Municipal or any other relevant law, statute, or code. If the Administrative Hearing Officer concludes the appellant was in violation of the law, the Administrative Hearing Officer shall revoke or suspend the massage establishment permit.

H. The decision of the Administrative Hearing Officer on the determination of a violation of Riverside Municipal Code or other relevant law is final. Any appeal of the Administrative Hearing Officer's decision shall be governed by California Code of Civil Procedure section 1094.6 or such section as may be amended from time to time.

I. Any withdrawal of an appeal or the surrender of the permit will be deemed a revocation of that permit. (Ord. 7372 § 10, 2017; Ord. 7326 § 10, 2016; Ord. 7121 § 1, 2011; Ord. 4109 § 1 (part), 1974)

Section 5.52.145 Massage Establishment Land Use.

A. The Chief of Police may deny any massage establishment permit application if any of the following conditions are met:

1. If, within the past five (5) years, the Property had a massage establishment permit revoked or suspended under this Chapter or there was criminal activity relating to massage activity, including sex offenses as defined in this Chapter, on the Property; or

2. A massage establishment permit has been revoked or suspended within the past year.

B. The property owner may be notified in writing after any denial, revocation, or suspension of a massage establishment permit, or if any criminal activity or alleged criminal activity which has occurred on the Subject Property as soon as practical as determined by the Chief of Police.

C. An appeal of a denial of a massage establishment permit under this section may be made pursuant to the appeal provision of this Chapter. (Ord. 7372 § 11, 2017; Ord. 7326 § 11, 2016)

Section 5.52.150 Penalty.

A. Violation of this Chapter is an infraction or misdemeanor. Revocation or suspension of a permit shall not be a defense against prosecution.

B. The provisions of this Chapter may be enforced through the administrative code enforcement remedies set forth in Chapter 1.17 of this Code in addition to all other proceedings authorized by this Code or otherwise by law. The prevailing party in any action, administrative proceeding, or special proceeding to abate a nuisance shall be entitled to recover their attorney's fees and costs pursuant to Chapter 1.01, 1.17, and 6.15 of this Code, and Government Code section 38773.5. (Ord. 7372 § 12, 2017; Ord. 7121 § 1, 2011; Ord. 4109 § 1 (part), 1974)

Section 5.52.160 Severability.

If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Chapter and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional. (Ord. 7121 § 1, 2011; Ord. 4109 § 1 (part), 1974)