

**ORDINANCE NO. 2017-03**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AZUSA, CALIFORNIA DELETING ARTICLE IX (MESSAGE TECHNICIANS AND MESSAGE ESTABLISHMENTS) OF CHAPTER 18 (BUSINESSES), ADDING CHAPTER 88.48 (MESSAGE PARLORS AND MESSAGE TECHNICIANS) TO ARTICLE 4 (STANDARDS FOR SPECIFIC LAND USES) OF CHAPTER 88 (DEVELOPMENT CODE), AMENDING SECTION 88.70.020, AMENDING SECTION 88.24.005, AND AMENDING SECTION 88.26.010 OF THE AZUSA MUNICIPAL CODE REGARDING MESSAGE PARLORS AND MESSAGE TECHNICIANS**

**WHEREAS**, the City of Azusa, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

**WHEREAS**, pursuant to Chapter 2 of the Azusa Municipal Code, the City regulates the administration of the business of the City through and on behalf of the City Council of the City of Azusa (the “City Council”); and

**WHEREAS**, in 2008, the Legislature adopted Senate Bill 731, which created the California Massage Therapy Council, a state-organized nonprofit organization with regulatory authority over the certification of massage practitioners throughout the State of California; and

**WHEREAS**, Senate Bill 731 also limited the City’s regulatory authority over massage establishments that exclusively hire State-certified massage technicians, preempting most local licensure and permitting requirements and land use regulations; and

**WHEREAS**, the City amended the Azusa Municipal Code to comply with the regulations set forth in Senate Bill 731; and

**WHEREAS**, Senate Bill 731 has been widely criticized by local agencies as providing massage businesses with almost unprecedented protection from local zoning and land use authority, and interfering with local law enforcement efforts to close massage businesses that allow prostitution and other illegal activities; and

**WHEREAS**, as a result of Senate Bill 731, the City experienced a proliferation of massage establishments located in the City; and

**WHEREAS**, the increased number of massage establishments that have located in the City have resulted in an increase of police and code enforcement calls for service to many of those massage establishments. Some of those establishments are suspected of allowing sexually explicit activity to take occur on the premises, including prostitution; and

**WHEREAS**, during City inspections of some existing massage establishments, City inspectors collectively issued twenty-nine (29) citations amounting to \$39,750 in fines, and

**WHEREAS**, the illicit and illegal activities detailed in the above recitals at massage establishments in the City pose immediate health and safety threats to the establishments, its operators, employees, patrons, surrounding businesses, and the public; and

**WHEREAS**, Assembly Bill 1147, signed by Governor Jerry Brown, was created in response to criticism against Senate Bill 731 and allows local agencies to impose reasonable zoning, business licensing, and health and safety requirements on massage establishments. Assembly Bill 1147 went into effect on January 1, 2015; and

**WHEREAS**, on July 27, 2015, in response to Assembly Bill 1147, the City imposed a moratorium in order to study the issue of massage regulation and to prepare an ordinance to address the siting of massage parlors in the City. The moratorium was extended in accordance with Government Code Section 65858 and is set to expire on July 26, 2017; and

**WHEREAS**, the City now wishes to amend the Azusa Municipal Code to ensure that the City regulates massage establishments in compliance with the provisions of Assembly Bill 1147; and

**WHEREAS**, the City is also authorized by Government Code Section 51030 et seq., to regulate massage establishments by imposing reasonable standards relative to the skill and experience of massage operators and massage technicians, and reasonable conditions on the operation of the massage establishments; and

**WHEREAS**, the public peace, health, safety, and welfare require revisions to the Azusa Municipal Code relating to massage establishments and massage technicians to ensure that nuisance activities occurring at massage establishments in the City are properly regulated and cease; and

**WHEREAS**, the Planning Commission conducted a public hearing on the proposed Development Code Amendment No. 243 at a regular meeting on May 10, 2017, and recommended that the City Council approve this Ordinance; and

**WHEREAS**, all other legal prerequisites to the adoption of this Ordinance have occurred.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AZUSA, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** Incorporation of Recitals. The above recitals are true and correct and are incorporated herein by this reference.

**SECTION 2.** Article IX to Chapter 18 of the Azusa Municipal Code is hereby deleted in its entirety.

**SECTION 3.** Chapter 88.48 is hereby added to Article 4 of Chapter 88 of the Azusa Municipal Code to read in its entirety as follows:

## **“CHAPTER 88.48. MASSAGE PARLORS AND MASSAGE TECHNICIANS.**

### **88.48.010. - Definitions.**

The following words as used in this Chapter shall have the signification attached to them in this Chapter unless otherwise clearly apparent from the context:

“CAMTC Certificate” means a certificate issued by the California Massage Therapy Council to a Person who has obtained the right to use the title Certified Massage Therapist or Certified Massage Practitioner.

"Cosmetology Establishment" means an establishment which is licensed pursuant to all applicable Federal, State and Local Laws, rules and regulations to provide primarily the following types of services: (1) shaving or trimming the beard or cutting the hair of a Person; (2) giving facial and scalp Massages or treatments to a Person; (3) shampooing, arranging, dressing, curling, waving, relaxing, permanent waving, coloring or straightening the hair of a Person; (4) removing superfluous hair from the body of any Person by the Use of depilatories, tweezers or chemicals; and (5) cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any Person.

“Licensed Massage Technician” means any Person who administers Massage upon another human being in exchange for anything of value whatsoever while in the possession of a valid CAMTC Certificate.

"Massage" means and includes any method of treating or manipulating the external parts of the human body for remedial, hygienic, relaxation or any other purpose, whether by means of pressure on, friction against or rubbing, touching, stroking, tapping, kneading, pounding, vibrating or other manner of touching external parts of the human body with the hands or by means of an instrument, such as any mechanical or electrical apparatus or appliance, with or without supplementary aids such as rubbing alcohol, liniment, antiseptic, oil, powders, creams, ointment or other similar preparations commonly used in this practice.

"Massage Parlor" means any business wherein any Person, firm, association, partnership, corporation, or combination of the same engages in, conducts, carries on or permits to be engaged in, conducted or carried on, for money or any other consideration whatsoever, the administration to another Person of a Massage or a bath or health treatment involving a Massage. "Massage Parlor" shall not include Cosmetology Establishments. The fact that a business utilizes independent contractors rather than employees shall not remove it from the definition of “Massage Parlor.”

"Operator" means all Persons who have an ownership interest in a Massage Parlor or a Cosmetology Establishment and who are responsible for the Day to Day operations of the establishment.

"Person" means any individual, corporation, partnership, association or other group or combination of the same acting as an entity.

"Unlicensed Massage Technician" means any Person who administers Massage upon another human being in exchange for anything of value whatsoever without a valid CAMTC Certificate.

**88.48.020. - Business License - Required/Fee.**

Each Massage Parlor shall obtain a business license and pay the required fees in accordance with Article I of Chapter 18. Each Licensed Massage Technician operating as an independent contractor shall obtain a business license and pay the required fees in accordance with Article I of Chapter 18. At the time of application for said business license, Licensed Massage Technicians performing off-premises massages shall provide a copy of a valid CAMTC Certificate to the Economic & Community Development Department.

**88.48.030. - Massage Parlor Permit.**

- A. It is unlawful for any Person to own or operate, in or upon any fixed premises within the City, a Massage Parlor in the absence of a Permit issued pursuant to the provisions hereinafter set forth.
- B. Notwithstanding anything to the contrary in subsection A of this Section, Persons who own or operate licensed Cosmetology Establishments and who wish to provide incidental Massage services pursuant to Section 88.48.180, need not obtain a Permit pursuant to this Section.
- C. Each applicant shall pay a nonrefundable fee, in an amount determined by Resolution of the City Council, at the time they submit a Permit application or renewal application under this section. The application fee is for the purpose of defraying the expense of investigation, administration and issuance of said Permit.

**88.48.040. – Unlicensed Massage Technicians.**

- A. It is unlawful for any Person to engage in, conduct or carry on, attempt to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on the business of an Unlicensed Massage Technician at any location within the City, including a Massage Parlor and a Cosmetology Establishment.
- B. The requirements of this Section shall have no Application and no effect upon, and Shall not be construed as applying to, any physician, surgeon, chiropractor, osteopath, or physical therapist fully licensed by the State, or any nurse, assistant, trainee or other Person administering under the immediate direction, supervision and control of any physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State. This section does not apply to any treatment

administered in good faith in the course of the practice of any healing art or professions by any Person licensed to practice any such art or professions under the Business and Professions Code of the State or any other Law of this State.

**88.48.050. – Permit Application contents.**

An applicant for a Massage Parlor Permit shall submit the following information:

- A. Full name and any aliases heretofore used or currently used, and current addresses of the Operator(s), and applicant if different;
- B. Written proof that the Operator(s), and applicant if different, is over the age of eighteen years;
- C. The business, occupation, or employment of the Operator(s), and applicant if different, for three years immediately preceding the date of the application;
- D. Any Massage or similar Business License history of the Operator(s), and applicant if different, including whether such Person, in previous operation, in this or another area, has had his or her license revoked or suspended, the reason therefor, and any business activity or occupation subsequent to the action of suspension or revocation;
- E. A full list of all Licensed Massage Technicians who will practice at the premises. For each Licensed Massage Technician listed, applicant shall provide the current CAMTC Certificate number and a copy of the CAMTC Certificate;
- F. A list of each person permitted to act as the on-duty manager of the Massage Parlor and a statement, signed and dated by each such designated manager, certifying under penalty of perjury that they: (1) Have received a copy of this Chapter; (2) Understand its contents; and (3) Understand the duties of a manager as provided in this Chapter;
- G. Evidence that the Operator(s) has obtained insurance issued by an insurance company authorized to do business in the State of California under a liability insurance policy providing minimum coverage of \$500,000.00 for injury or death to one person arising out of the operation of any massage business and the administration of a massage;
- H. A list of employees who are not Licensed Massage Technicians for purposes of performing a Live Scan with the California Department of Justice;
- I. The signature of all Operator(s) on the completed application;
- J. Floor Plan;

- K. Operation Statement; and
- L. Menu of Services.

**88.48.060. - Permit—Procedure.**

Upon payment of all fees, the accurate submission of all information required by the application, and upon proper inspection, the appropriate Permit shall be granted by the Economic & Community Development Director. The Permit may be denied if the applicant fails to meet any of the requirements of this Chapter or if the applicant or owner has had a similar permit revoked in the prior five years. Any Person denied a Permit pursuant to these provisions may appeal to the City Council in writing, stating reasons why the Permit should be granted. The City Council may grant or deny the Permit. All Permits issued hereunder are nontransferable.

**88.48.070. - Display of Permit and Certificates.**

Every Person to whom a Massage Parlor Permit has been granted shall display the Permit and the current CAMTC Certificate held by each Licensed Massage Technician employed therein in a conspicuous place at the premises. Every Operator shall report in writing to the City any change in the Licensed Massage Technicians permitted to provide services at the Massage Parlor. The report shall contain the name of the employee and the date of hire or termination. The report shall be made within five days of the date of hire or termination. All employees, independent contractors, and Licensed Massage Technicians at the Massage Parlor premises shall be required to wear name tags identifying the individual's name and indicating clearly whether such person is a Licensed Massage Technician. If the person is a Licensed Massage Technician, the name on the name tag shall match the name on the CAMTC Certificate.

**88.48.080. - Change of location.**

A Massage Parlor Permit shall be specific to the Premises referenced on the application. A change of location of Massage Parlor premises shall not be approved by the Economic & Community Development Department. The relocation of an existing business will be subject to a new application.

**88.48.090. - Permit—Expiration and renewal.**

All Permits issued under provisions hereof shall run concurrently with the business license renewal period. A renewal Permit may be issued upon application to the City and the payment of a renewal fee set by Resolution of the City Council. Any application for renewal must be made on or before the fifteenth day prior to the business license expiration date. In the event of failure to so apply for renewal of a Permit on or before the fifteenth day prior to the business license expiration date, a Person whose Permit has expired shall be deemed a new applicant and shall have to requalify under the provisions herein. With each renewal application, Persons holding a Massage Parlor

Permit must submit a list of all Licensed Massage Technicians who will practice at the premises. For each Licensed Massage Technician listed, applicant shall provide the current CAMTC Certificate number and shall provide copies of CAMTC Certificates of Licensed Massage Technicians who have been employed by the Massage Parlor during the prior year and the upcoming renewal year. The applicant shall also update the operation statement, floor plan, and menu of services. In addition, the applicant shall provide proof of insurance and a revised list of on-duty managers required by Section 88.48.050.

#### **88.48.100. – Facilities and Operational Standards.**

No Massage Parlor Permit shall be issued or renewed unless an inspection discloses that the Massage Parlor complies with each of the following minimum requirements. Further, following issuance of a Permit, each Massage Parlor shall be maintained in accordance with the foregoing requirements:

- A. A readable sign in compliance with this Code shall be posted at the main entrance identifying the business as a Massage Parlor. Said sign shall be readable and shall identify the premises as a massage business. The sign and the front of the business shall not be illuminated by strobe or flashing lights.
- B. The hours of operation must be posted in the front window, clearly visible from the outside. The maximum hours of operation for any Massage Parlor shall be from 7:00 a.m. until 10:00 p.m. daily. In no event shall a massage begun before 10:00 p.m. continue beyond 10:00 p.m. Patrons of the Massage Parlor may not be permitted to remain on the premises outside these hours of operation.
- C. A list of services available and the cost of such services font size 12 or larger letters shall be posted in a conspicuous public place within the premises. Only those services listed may be performed. Nothing in this subsection shall preclude the Operator from posting additional signs in other languages as long as at least one sign in English is posted pursuant to this subsection.
- D. Minimum lighting shall be provided in accordance with the Uniform Building Code, and additionally, at least one artificial light of not less than forty watts shall be provided in each enclosed room or booth where Massage services are being rendered.
- E. Minimum ventilation shall be provided in accordance with the Uniform Building Code.
- F. Adequate equipment for disinfecting and sterilizing any instruments used for Massage shall be provided. Said equipment shall be available to Licensed Massage Technicians at the locations where Massage is performed. All instruments and equipment shall be appropriately disinfected and sterilized prior to use.

- G. Hot and cold running water shall be available at all times.
- H. Closed cabinets shall be utilized and adequately identified for the storage of clean linen. Soiled linen shall not be stored in the same location as clean linen. Soiled linen shall be stored separately and clearly identified as such.
- I. Adequate dressing and toilet facilities shall be provided for the patrons. Such facilities shall be equipped with adequate locking devices. Such equipment shall include at least one toilet and a separate washbasin, which washbasin shall provide soap or detergent and hot running water at all times and shall be located within close proximity to the area devoted to the performing of massage services. A permanently installed soap dispenser, filled with soap, and a single service towel dispenser shall be provided at the restroom hand wash sink. No bar soap may be used. A trash receptacle shall be provided in each toilet room.
- J. All walls, ceilings, floors, steam or vapor rooms, and all other physical facilities for the Massage Parlor shall be kept in good repair. All physical facilities shall be cleaned and sanitized daily and maintained in a clean and sanitary condition at all times.
- K. Clean and sanitary towels and linens shall be provided for patrons receiving Massage services. No common use of towels or linens shall be permitted. Towels and linen shall be laundered or changed promptly after each use.
- L. Beds, floor mattresses, and waterbeds shall not be located at the premises.
- M. A separate locker, capable of being locked, shall be provided at no extra charge for each patron served.
- N. No person or persons shall be allowed to live inside the Massage Parlor at any time. No food of any kind shall be prepared for sale or sold in the business unless an appropriate public health permit is granted by the County of Los Angeles.
- O. No person shall enter, be in or remain in any part of the Massage Parlor while in possession of, consuming, using, or under the influence of any alcoholic beverage or controlled substance. The Operator(s) and on-duty manager shall be responsible to ensure that no such person shall enter or remain upon the premises. Service of alcoholic beverages shall not be permitted.
- P. All patrons shall be provided clean, sanitary and opaque coverings capable of covering the patrons' specified anatomical areas, including the genital area, anus and female breast(s). No common use of such coverings shall be permitted, and re-use is prohibited unless adequately cleaned.

- Q. No Massage Parlor 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 patrons that any service is available other than those services described in this Chapter (including those massage techniques recognized by the California Massage Therapy Council as legitimate). Nor shall any massage business employ language in the text of such advertising that would reasonably suggest to a prospective patron that any service is available other than those services authorized by this Chapter and applicable law.
- R. Massage Parlor shall comply with all state and federal laws and regulations for handicapped customers. No Operator or Licensed Massage Technician may discriminate or exclude patrons on the basis of their race, sex, religion, age, handicap or any other classification protected under federal or state laws, rules or regulations.
- S. All front, reception, hallway or front exterior doors (except back or exterior doors used solely for employee entrance to and exit from the massage business) shall be unlocked during business hours, except as may be permitted by applicable law (such as the Uniform Fire Code or Government Code Section 51034) which allows for safety doors which may be opened from the inside when locked. Whenever the business is open, staff shall be available to assure security for clients and massage staff who are behind closed/unlocked doors. No massage may be given within any cubicle, room, booth or any area within a massage business which is fitted with a lock of any kind (such as a locking door knob, padlock, dead bolt, sliding bar or similar device), unless the only door is an exterior door. Entry doors to any room shall not be obstructed by any means.
- T. No persons other than Operator(s), Licensed Massage Technicians, and customers shall be permitted anywhere in the Massage Parlor other than the lobby/reception area during the hours of operation.
- U. No Licensed Massage Technician or other person on the premises may engage in any massage technique not recognized by the California Massage Therapy Council as legitimate. No Licensed Massage Technician or other person on the premises may engage in unprofessional conduct, as that term is described in Business and Professions Code Section 4609 (a)(1), which includes sexually suggestive advertising related to massage services, engaging in any form of sexual activity on the premises, providing massage of the genitals or anal region, and 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.
- V. Licensed Massage Technicians and all other employees of the Massage Parlor shall comply with the dress code requirements imposed on Licensed Massage Technicians under Business and Professions Code Section 4609 (a)(10), which

prohibits: (1) attire that is transparent, see-through, or substantially exposes the certificate holder's undergarments; (2) swim attire, if not providing a water-based massage modality approved by the council; (3) dressing in a manner that exposes the certificate holder's breasts, buttocks, or genitals; (4) dressing in a manner that constitutes a violation of Section 314 of the Penal Code; and (5) dressing in a manner that is otherwise deemed by the council to constitute unprofessional attire based on the custom and practice of the profession in California.

- W. The Operator or on-duty manager shall post, on a daily basis, the name of each on-duty manager in a conspicuous public place in the lobby of the massage business. The operator, and the on-duty manager in the operator's absence, shall be responsible for ensuring compliance with this Chapter. The Operator and any on-duty manager shall be responsible for the conduct of all employees while the employees are on the premises.
- X. At least one Licensed Massage Technician shall be on the premises and on duty at all times when the business is open.
- Y. No Massage Parlor shall employ, or permit to be employed at the Premises, any person who is not a Licensed Massage Technician unless the City has been provided with sufficient information to perform a Live Scan with the California Department of Justice and the person has successfully completed that process, including the payment of fees to reimburse the City in connection with the cost of performing the Live Scan.
- Z. Each Massage Parlor shall post CAMTC Certificates of Licensed Massage Technicians and require all persons working at the Premises to wear name tags in accordance with Section 88.48.070.

**88.48.110. - Employee—Restrictions.**

No Person holding a Massage Parlor permit may hire any Unlicensed Massage Technician or permit any Unlicensed Massage Technician to perform Massages at the premises.

**88.48.120. - Inspection.**

- A. Each Person holding a Massage Parlor permit consents to the inspection of the Massage Parlor by the City's Building Division, Community Improvement Division, Planning Division, Fire Department and Police Department and the County Health Department for the purpose of determining that the provisions of this Chapter or other applicable laws or regulations are met.
  - 1. The City's Building Division, Community Improvement Division, Planning Division, Fire Department and Police Department and the County Health Department may, from time to time, make an inspection of

each massage business for the purpose of determining that the provisions of this Chapter, state law, or other applicable laws or regulations are met. Routine inspections shall occur once per calendar year, except where violations have occurred in the last calendar year or where complaints have been received. Costs associated with annual inspections, or re-inspections required as a result of a violation, will be set by Resolution of the City Council and may be included as part of the initial application fee and the annual renewal fee referenced in Sections 88.148.030 and 88.148.090.

2. Inspections of the massage business shall be conducted during business hours.
3. An operator or his or her agent, servant or employee commits an offense if he or she refuses to permit a lawful inspection of the premises by a representative of Building Division, Community Improvement Division, Planning Division, Fire Department and Police Department and the County Health Department at any time it is occupied or open for business.

B. In the event a Person at the Massage Parlor is found, following the expiration of appeal rights or a determination in an administrative provision, to have violated any of the requirements of 88.48.100, the Chief of Police (or designee) may require the posting of the following notice:

“NOTICE TO ALL PATRONS

THIS MASSAGE BUSINESS AND THE MASSAGE ROOMS DO NOT PROVIDE COMPLETE PRIVACY AND ARE SUBJECT TO INSPECTION BY THE AZUSA POLICE DEPARTMENT WITHOUT PRIOR NOTICE.”

The notice set forth above shall be prepared by the Azusa Police Department and shall be conspicuously posted in a location within the massage business that are easily visible to any person entering the premises and in each massage room. The notice shall be so posted for 12 months following the violation of any of the offenses set forth in Section 88.48.100. The requirement for posting the notice described in this section is cumulative and in addition to all other remedies, violations and penalties set forth in this chapter or in the ordinances, laws, rules or regulations of the City of Azusa, the County of Los Angeles, and the State of California.

**88.48.130. - Records of treatment.**

Every Person owning or operating a Massage Parlor under a Permit as herein provided, and any Person owning or operating a Cosmetology Establishment in which Incidental Massage services are performed pursuant to this Chapter, shall keep a record of the date and hour of each treatment, the name and address of the patron, and the name of the technician administering such treatment. Identical records shall be kept of

treatment rendered off the premises, and, in addition, shall describe the address where the treatment was rendered. Such records shall be maintained for a period of two years. Such records shall be open to inspection upon one week's written notice or immediately with a search warrant by officials charged with the enforcement of these provisions for the purposes of Law enforcement and for other purposes related to this Chapter.

#### **88.48.140. – Violations and Grounds for Revocation.**

A Massage Parlor Permit may be revoked as set forth in Section 88.48.150 on one or more of the following grounds:

- A. That the holder is guilty of fraud or deceit in her or his application for a Permit;
- B. That the holder is permitting the practice of Massage in a manner intended to arouse, appeal to, or gratify the lust or passions or sexual desires of another, or that the holder is permitting the practice of medicine without a license or engaging in other similar unauthorized practices;
- C. That the holder has been convicted in a court of competent jurisdiction of a felony or a crime of moral turpitude. The conviction of a felony shall include the conviction of an offense which, if committed within the State, would constitute a felony under the laws thereof;
- D. That the holder has employed, allowed or permitted an Unlicensed Massage Technician to perform Massage at the premises; or
- E. That the holder has failed to maintain the premises in accordance with the requirements set forth in Section 88.48.100.

Notwithstanding the foregoing, the violation of any provision of this Chapter may be subject to enforcement in accordance with Chapter 1 or Article 6 of Chapter 88 of this Municipal Code. City Code Enforcement Officers may require that Operators of Massage Parlors and Licensed Massage Technicians comply with provisions of this Code by abating certain conditions on an immediate basis to protect the public health, safety, and welfare.

#### **88.48.150. - Revocation and Appeal.**

If any Person holding a Permit to carry on the business of a Massage Parlor, as provided in this Chapter, shall conduct or carry on such business contrary to the provisions of this Chapter or any other law relating to or regulating such business, including Article I of Chapter 18 of this Code, it shall be subject to suspension, revocation, and any other penalty permitted under this Code.

No Permit shall be suspended or revoked until after a hearing has been conducted before the City Council relating to such suspension or revocation. Notice of such hearing

shall be given in writing and shall be served at least ten days prior to the date of the hearing thereon, which notice shall state the grounds of complaint against the holder of such Permit, or against the business carried on by her or him and shall also state the time when and the place where such hearing will be held. Such notice shall be served upon the holder of such Permit by delivering the same to such Person, his manager or agent, or to any Person in charge of, or employed in the place of business of such licensee or by leaving such notice at the place of business or residence of such Person with some Person of suitable age and discretion. In the event the holder of such license cannot be found, and a service of such Notice cannot be made upon him or her in the manner herein provided, then a copy of such notice shall be mailed, postage fully prepaid, addressed to such holder or such licensee at his place of business or residence at least ten days prior to the date of such hearing.

**88.48.160. - Abatement.**

Any Massage Parlor, or Cosmetology Establishment in which Incidental Massage services are performed pursuant to this Chapter, that is operated, conducted, or maintained contrary to the provisions of this Chapter shall be and the same is declared to be unlawful and a Public Nuisance. The City Attorney or the District Attorney may, in addition to or in lieu of prosecution in a criminal action hereunder, commence an action or actions, proceeding or proceedings for the abatement, removal, and enjoinder thereof, in the manner provided by law. They shall also take such other steps, and shall apply to such courts or court as may have jurisdiction to grant such relief, as will abate or remove such Massage Parlor or Cosmetology Establishment and restrain and enjoin any Person from operating, conducting, or maintaining a Massage Parlor or Cosmetology Establishment contrary to the provisions of this Chapter.

**88.48.170. - Severability.**

This Chapter and the various parts, sections and clauses thereof are declared severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid, the remainder of this Chapter shall not be affected thereby. The City Council of the City of Azusa declares that it would have passed this Chapter and each part thereof, regardless of the fact that one or more parts thereof be declared unconstitutional or invalid.

**88.48.180. - Cosmetology Establishments providing Incidental Massage services.**

- A. Every Cosmetology Establishment providing Massages pursuant to this Chapter shall be duly and adequately licensed at all times pursuant to all State and Local Laws, rules and regulations, including but not limited to, Article I of Chapter 18 of this Code.
- B. Massage services shall be performed only by Licensed Massage Technicians.

- C. Massages shall be provided only in clearly designated, lighted and accessible locations within the Cosmetology Establishment. The provision of Massages, as well as the location in which the all Licensed Massage Technicians operate, shall comply with the Federal, State and Local health, safety and building standards applicable to Cosmetology Establishments, including those statutory and regulatory standards applicable to the operation of Cosmetology Establishments.
- D. Massage services shall be Incidental to the primary cosmetology services of the Cosmetology Establishment. No more than one Licensed Massage Technician shall be Permitted to operate in a Cosmetology Establishment for every three cosmetologists operating in the same Establishment at any one time. If less than three cosmetologists are operating in the Establishment at any one time, there shall be no more than one Licensed Massage Technician operating in the same Establishment at that time.
- E. It is unlawful for any Person to own or operate a Cosmetology Establishment in which Licensed Massage Technicians operate if the establishment does not comply with all applicable Federal, State and Local health, safety and building standards, including those statutory and regulatory standards applicable to the operation of Cosmetology Establishments.

#### **88.48.190. – Massage Schools**

No Massage Parlor shall operate as a school of massage or operate in the same premises or use the same facilities as a school of massage, except as otherwise may be permitted by law. It shall be unlawful for any person to perform any massage upon a member of the general public while on the premises of a school of massage. Instructors and students of such schools may practice massage only upon a bona fide employee or student of the school.

#### **88.48.200. – Off-Premises Massage Businesses**

- A. No person shall engage in, conduct, carry on or advertise or permit to be engaged in, conducted or carried on any off-premises Massage business in the City unless that person is a Licensed Massage Technician and has obtained a business license and paid the required fees in accordance with Article I of Chapter 18. At the time of application for said business license, Licensed Massage Technicians performing off-premises massages shall provide a copy of a valid CAMTC Certificate to the Community Development Department.
- B. Each off-premises massage business must comply with the following:
  - 1. The owner, operator, responsible managing officer, manager or permittee shall display the CAMTC Certificate of the Licensed Massage Technician to every customer who so requests. The CAMTC Certificate must be available for review at the time any Massage is conducted.

2. No person operating an off-premises massage business shall assist, allow or permit any Licensed Massage Technician to perform any Massage in a hotel, motel, or other commercial establishment that does not have a Massage Parlor Permit, unless the commercial establishment is the business premises of the customer.
3. Licensed Massage Technicians performing off-premises Massage services shall comply with those requirements in Section 88.48.100 not related to facilities, including but not limited to subsections F, R, U, V, and Y of that Section.

**88.48.210. – Amortization of Existing Massage Parlors.**

- A. All requirements set forth in this Chapter are deemed to be necessary for the protection of the public health, safety, and welfare and shall be applicable to and govern all existing and proposed massage parlor immediately upon the date the ordinance codified in this Chapter becomes effective.
- B. In the event a massage parlor which is located within a zone in which massage parlors are permitted and which is lawfully in existence prior to the adoption of this Section is not in compliance with the requirements of this title, such massage parlor shall conform to all requirements and obtain all necessary permits required for the operation of a massage parlor identified in this Chapter and Article I of Chapter 18 of this Code within six months following the effective date of the ordinance codified in this Section.
- C. Any existing massage establishment parlor which is located within a zone in which massage parlors are not permitted which is a nonconforming use as of the effective date of the ordinance codified in this Section shall be subject to an amortization period of five years. Notwithstanding the foregoing, Massage Parlors in existence as of the effective date of the ordinance codified in this Section and located within a zone in which Massage Parlors are permitted shall not be subject to amortization based solely on the failure to comply with the overconcentration provisions of Section 88.48.220.
- D. Upon the conclusion of the amortization period, any massage establishment which is a nonconforming use shall cease all business operations, and all signs, advertising and displays relating to such business shall be removed within 30 days thereafter.
- E. Notwithstanding the foregoing, requirements regarding facilities as set forth in Section 88.48.100 shall become immediately effective and must be observed in full force by existing massage parlors as of the effective date of the ordinance.

**88.48.220. – Overconcentration of Massage Parlors.**

In order to avoid an overconcentration of Massage Parlors in the City and to protect the public health, safety, and welfare, in those zones where Massage Parlors are permitted, no Massage Parlor shall be permitted to locate within 500 feet of an existing Massage Parlor. For the purposes of this Section, distances shall be measured from the edge of the parcel where the existing and proposed Massage Parlors are located.”

**SECTION 3.** Section 88.70.020 of the Azusa Municipal Code is hereby amended to delete the following language from the definition of ‘Personal Services’:

“massage (licensed, therapeutic, non-sexual)”

**SECTION 4.** Table 2-2 in Section 88.24.005 of the Azusa Municipal Code is hereby amended to add the following lines:

LAND USE TYPE	PERMIT REQUIRED BY ZONE						Specific Use Regulations
	DTC	DCC	DTV	DE	DW	DWL	
Massage Parlor	—	—	—	S	—	—	Chapter 88.48

LAND USE TYPE	PERMIT REQUIRED BY ZONE			Specific Use Regulations
	DU-MU	DU-RM	DU-RMO	
Massage Parlor	S	—	—	Chapter 88.48

**SECTION 5.** Table 2-3 in Section 88.26.010 of the Azusa Municipal Code is hereby amended to add the following lines:

LAND USE TYPE	PERMIT REQUIRED BY ZONE					Specific Use Regulations
	CAZ	CSG	CSA	CAH	CFB	
Massage Parlor	—	—	S	S	—	Chapter 88.48

**SECTION 6.** CEQA. This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (“CEQA”) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption

be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

**SECTION 7.** Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 213 E. Foothill Blvd., Azusa, CA 917025. The custodian of these records is the City Clerk.

**SECTION 8.** Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council of the City of Azusa hereby declares that it would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**SECTION 9.** Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

**SECTION 10.** Publication. The City Clerk shall certify to the adoption of this Ordinance. Not later than fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Azusa.

**PASSED, APPROVED and ADOPTED** this 19<sup>th</sup> day of June, 2017.

/s/Joseph Romero Rocha  
Mayor

**Attest:**

/s/Jeffrey Lawrence Cornejo, Jr.  
City Clerk

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES       ) ss.  
CITY OF AZUSA                    )

**I HEREBY CERTIFY** that the foregoing Ordinance No. 2017-03, was duly introduced and placed for its first reading at a regular meeting of the City Council on the 5<sup>th</sup> day of June, 2017, and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 19<sup>th</sup> day of June, 2017 by the following vote of the Council:

AYES:       COUNCILMEMBERS: CARRILLO, GONZALES, MACIAS, ALVAREZ, ROCHA  
NOES:       COUNCILMEMBERS: NONE  
ABSENT:     COUNCILMEMBERS: NONE

/s/Jeffrey Lawrence Cornejo, Jr.,  
City Clerk

**APPROVED AS TO FORM:**

/s/City Attorney  
Best Best & Krieger, LLP