

Chapter 6.30**MASSAGE ESTABLISHMENTS AND MASSAGE THERAPISTS¹**

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6.30.010 Purpose – Authority.

It is the purpose and intent of this chapter to provide for the orderly regulation of massage therapists and massage establishments as defined in this chapter, in the interest of the public health, safety and welfare. The city wishes both to recognize the practice of massage as a valid professional field and to discourage prostitution and other unlawful activity which otherwise may become associated with some massage establishments. This chapter provides certain minimum qualifications and standards for the operation of massage establishments, their managing employees, and massage therapists.

This chapter is adopted under the authority of Government Code sections 51030 through 51034, Government Code section 37101, Business and Professions Code section 16000, and California Constitution Article XI, Section 7. (Ord. 816 § 1, 2006; Ord. 712 § 1, 1996; 1991 code § 6-24.1)

6.30.020 Definitions.

In this chapter:

A. *Chief* means the chief of police or his/her designee.

B. *Massage/bodywork* means the application of various techniques to the muscular structure and soft tissues of the human body. Application of massage and bodywork techniques may include, but is not limited to, stroking, kneading, tapping, compression, vibration, rocking, friction, pressure and similar techniques.

Massage/bodywork specifically excludes: diagnosis, prescription, intentional manipulation or adjustments of the skeletal structure, or any other service, procedure or therapy which requires a license to practice (chiropractic, osteopathy, orthopedics, physical therapy, podiatry, or medicine), hypnosis, naturopathic, colonic irrigation, acupuncture, vacuum cupping, nutritional or dietary counseling, detoxification programs, yoga, exercise,

1. **Editor's note:** Prior ordinance history includes portions of 1978 code Ch. 5.16 and Ord. 495.

spiritual healing, or procedures which penetrate body cavities, either manually or with any other method of intrusion.

C. *Massage establishment* means a studio or place where licensed individuals practice massage/bodywork.

D. *Massage therapist* means a massage/bodywork practitioner who administers massage/bodywork for compensation. Examples of massage therapists include practitioners of Swedish massage, sports massage, shiatsu, polarity therapy, rolfers, hellerwork and reflexology.

A *massage therapist* who is an *independent contractor* is one who works at a massage establishment (or has an outcall massage service permit), but is not a salaried employee and does not share a percentage of therapy proceeds with the establishment.

E. *Outcall massage service* means a business which provides massage/bodywork at a location designated by the client or the massage therapist, other than at a designated approved massage establishment. (Ord. 816 § 1, 2006; Ord. 712 § 1, 1996; 1991 code § 6-24.2)

6.30.030 Permits required – Massage establishment – Massage therapist – Outcall massage service.

A. Permit required for massage establishment. No person may own or operate a massage establishment in the city without first obtaining a massage establishment permit under this chapter. No person who owns or operates a massage establishment may:

1. Employ a person as a massage therapist unless the massage therapist has a permit under this chapter; or
2. Allow an independent contractor massage therapist to work at the site unless the massage therapist has a permit under this chapter.

B. Permit required for massage therapist. No person may practice massage or bodywork in the city without first obtaining a massage therapist permit.

A massage therapist holding a massage therapist permit from the city on the effective date of amendments to this chapter (November 1, 2006) need not comply with PHMC § 6.30.050(B)(6) and (7) as long as the permit is renewed and does not lapse.

In addition to holding a massage therapist permit, a massage therapist must (1) work at a place having a massage establishment permit, or (2) work in the therapist's own home with a massage establishment permit and a home occupation permit, or (3) have an outcall massage service permit.

C. Permit required for outcall massage service. No person may provide outcall massage service in the city, or through a city address or telephone number, without first obtaining an outcall massage service permit. The outcall massage service permit is required in addition to the massage therapist permit and, if applicable, to the massage establishment permit.

D. Other city permits. Applicants are advised that they must also obtain (1) a city business license, and (2) a home occupation permit if massage is practiced at the therapist's home. (Ord. 816 § 1, 2006; Ord. 712 § 1, 1996; 1991 code § 6-24.3)

6.30.040 Exceptions.

A. A massage establishment permit is not required for a hospital, nursing home, sanitarium, physiotherapy establishment, office of a licensed medical professional, or other state-licensed physical or mental health facility. A massage establishment permit is not required for a personal fitness training center, gymnasium, athletic facility or health club, when the giving of massage is an incidental function of the business, constituting 10% or less of the business.

B. A massage therapist permit is not required for a person with a current certificate to practice the healing arts under the laws of the State of California (including, but not limited to, a physician, surgeon, chiropractor, osteopath, nurse, physical therapist, or other health professional), or a person working under the direction of such a person in one of the health facilities set forth in subsection A of this section. (Ord. 816 § 1, 2006; Ord. 712 § 1, 1996; 1991 code § 6-24.4)

6.30.050 Application requirements.

A. Massage establishment permit or outcall massage service permit. An applicant for a massage establishment permit or an outcall massage service permit shall submit an application to the chief of police. The applicant must be the managing director or partner, or the managing employee of the establishment or outcall massage service. The application shall include the following information under oath:

1. Name, address and telephone number of the proposed massage establishment or outcall massage service.
2. Name, residence address and telephone number of the applicant, the establishment or outcall massage service manager, and each partner, director, officer, or stockholder associated with the business.
3. Official government-issued identification that proves that the applicant is over 18 years old.
4. Applicant's residence addresses, business addresses, and business, occupation or employment for the five years preceding the application.
5. A statement as to whether the applicant or any partner, director, officer or stockholder has: (a) had a massage establishment or similar business permit revoked or suspended (and the reasons); or (b) been convicted of a crime (including a plea of nolo contendere), and the nature of the offense and the penalty imposed for it.
6. Fingerprints of the applicant and recent portrait photograph.
7. Nature or type of massage/bodywork to be provided.
8. Such other identification and information as the chief of police considers necessary.
9. The past experience of the applicant in owning, operating, managing or working in any massage establishment; and the name, address and past experience of the person(s) who will be in charge of, manage or operate the massage establishment.
10. The number of persons currently working or intending to work at the date of the application in the massage establishment as massage therapists or employees; their names and residence addresses, the nature of work performed, and a recent passport-sized photograph of each.
11. Evidence that each employee or independent contractor has been screened and been the subject of a background check to ensure that no employee has committed a disqualifying offense, and evidence that each massage therapist also has a massage therapist permit under subsection B of this section.
12. A written statement that neither the applicant nor any person to be directly or indirectly interested in the permit if granted has knowingly made any false, misleading or fraudulent statement in the application for the permit or in any other document required by the City of Pleasant Hill.

B. Massage therapist permit. An applicant for a massage therapist permit shall submit an application to the chief of police. This permit is required for any person who will be administering massage therapy, including the owner or manager, unless a person is exempt under PHMC § 6.30.040. The application shall include the following information under oath:

1. Name, address and telephone number of the massage establishment.
2. Name, residence address and telephone number of the applicant.
3. Official government-issued identification that proves that the applicant is over 18 years old.
4. Applicant's residence addresses, business addresses, and business, occupation or employment for the five years preceding the application.
5. A statement as to whether the applicant has: (a) had a massage therapist permit or similar permit revoked or suspended (and the reasons); or (b) been convicted of a crime (including a plea of nolo contendere), and the nature of the offense and the penalty imposed for it.
6. Evidence of one of the following:
 - a. Applicant's certificate of graduation (original or certified copy) from a state-approved school which teaches the method, profession and work of massage techniques. The minimum course of instruction

upon graduation shall be 250 hours of approved massage therapy training. Alternatively, if the applicant is currently enrolled in massage training, he or she may provide a letter from a state-approved school stating that the student has completed at least 250 hours of approved massage therapy training at that school.

State-approved school means a facility that meets minimum standards for training and curriculum in massage and related subjects and that is approved by the Bureau for Private Postsecondary and Vocational Education under Education Code section 94915, by an institution accredited under Education Code section 94739(b)(7), by a college or university of the state higher education system as defined in Education Code section 100850, or by a school of equal or greater training that is approved by the corresponding agency in another state or by an agency recognized by the United States Department of Education.

Approved massage therapy training means a course which has been deemed approved by the Bureau of Private Postsecondary and Vocational Education under Education Code section 94915 or the equivalent department from another state (as shown to the satisfaction of the police department).

b. Applicant's certificate of graduation (original or certified copy) from a state-registered school which teaches the method, profession and work of massage techniques. The minimum hours of the training curriculum must be 249 hours of registered massage therapy training. Alternatively, if the applicant does not possess a certificate of graduation, he or she may present proof of completion (original or certified copy) of at least 249 hours of registered massage therapy training.

An applicant who chooses this option b is also required to pass a written examination with a score of at least 70%. The test is administered by the police department and is comprised of questions reviewed by one or more massage schools. It is designed to effectively assess the basic knowledge required, including anatomy, physiology, hygiene and massage therapy. The additional fee for the test is established by resolution of the city council. If the applicant requires a translator during the test, he or she must arrange for a court-certified translator to be present, at the applicant's expense.

State-registered school means a facility that meets minimum standards for training and curriculum in massage and related subjects that is recognized by the Bureau for Private Postsecondary and Vocational Education under Education Code section 94931, by an institution accredited by the senior commission or the junior commission of the Western Association of Schools and Colleges as defined in Education Code section 94739(b)(7), by colleges and universities of the state higher education system as defined in Education Code section 100850, or by a school of equal or greater training that is approved by the corresponding agency in another state.

Registered massage therapy training means a course which has been deemed a registered course by the Bureau of Private Postsecondary and Vocational Education under Education Code section 94931 or the equivalent department from another state (shown to the satisfaction of the police department).

c. One of the following certificates (original or certified copy):

i. Certification evidencing satisfactory passage of the National Certification Examination for Therapeutic Massage or Bodywork (NCETMB) for an applicant practicing Western and non-Western massage; or

ii. Certification evidencing satisfactory passage of the National Certification Examination for Therapeutic Massage (NCETM) for an applicant practicing Western massage only.

7. Membership in good standing in a state or national professional massage organization or association that requires its members to have all of the following:

a. Documentation of at least 100 hours of massage training or education;

b. Possession of massage practitioner's malpractice insurance coverage in the minimum amount of \$500,000 per event;

c. Adherence to a code of ethics; and

d. Renewal of membership at a minimum of once every two years.

8. A statement regarding the nature of the massage/bodywork to be administered.

9. Fingerprints of the applicant and recent portrait photograph.

10. Such other identification and information as the chief of police considers necessary.

11. A massage therapist who is an independent contractor shall provide the police department with certification from the establishment permit holder, on a form provided by the police department, verifying that the massage therapist is an independent contractor and not an employee of the massage establishment. The

certification must have the signature of the massage establishment permit holder, either signed in the presence of police department staff or notarized. (Ord. 816 § 1, 2006; Ord. 712 § 1, 1996; 1991 code § 6-24.5)

6.30.060 Issuance or denial of permit.

A. Determination. The chief of police shall issue or deny a permit within 30 days of receipt of a complete application for a massage establishment permit, massage therapist permit or outcall massage service permit.

If prosecution is pending against the applicant either for conduct listed in this section or for conduct violating this chapter, the chief may postpone his or her decision on the application until the final resolution of the prosecution. As used in this subsection, "prosecution" means charges filed by the district attorney, administrative proceedings brought by a local government or agency, or a civil action maintained by the city.

B. Issuance. The chief shall issue the permit unless he or she finds any one of the grounds for denial set forth in subsection C of this section.

If issued, the massage establishment permit shall be on a written form, to be posted as set forth in PHMC § 6.30.090. If issued, the massage therapist permit shall be in the form of an identification card containing the name, permit number and a recent photograph, to be worn or carried as set forth in PHMC § 6.30.090.

C. Denial. The chief shall deny the permit if he or she finds any one of the following circumstances exist:

1. The applicant has not submitted a complete application and paid the required fee, or the applicant has knowingly made a false or misleading statement on the application.
2. The applicant has not complied with each requirement of the application.
3. The applicant, and, for a massage establishment permit, any partner, director, officer or stockholder, has been convicted of or entered a plea of nolo contendere for any of the following offenses:
 - a. Conduct which requires registration under California Penal Code section 290;
 - b. Conduct which is in violation of California Penal Code sections 220, 261, 264.1, 266(e), 266(h), 266(i), 314, 315, 316, 318, 647(a), 647(b), or 647(d);
 - c. Crimes that are designated in California Government Code section 51032(b);
 - d. Any other crime involving dishonesty, fraud, deceit, violence, or moral turpitude;
 - e. Conspiracy or attempt to commit any of the designated offenses;
 - f. Conviction to a charge of a violation of California Penal Code sections 415 and 602, or any lesser included or related offense, in satisfaction of, or as a substitute for, any of the previously listed crimes, or any crime committed while engaged in the ownership of a massage establishment or the practice of massage therapy;
 - g. Conviction under the laws of another jurisdiction which proscribe the same or similar conduct as the designated crimes;
 - h. Conviction of Health and Safety Code section 11550 or any offense involving the illegal sale, distribution or possession of a controlled substance specified in Health and Safety Code sections 11054, 11055, 11056, 11057 or 11058.
4. The applicant, and, for a massage establishment permit, any partner, director, officer or stockholder, has been successfully prosecuted under the Red Light Abatement Act (California Penal Code § 11225 and following) or any similar law in another jurisdiction.
5. The applicant, and, for a massage establishment permit, any partner, director, officer or stockholder, has had a similar permit suspended or revoked, unless the applicant shows a material change in circumstances.
6. The location of the massage establishment and the operation of the business do not comply with all applicable laws, ordinances and regulations, including building, zoning, parking, health, safety and fire regulations.

If the permit is denied, the chief shall notify the applicant in writing of the decision and the reasons for it. The decision of the chief may be appealed within 10 days from the notice of decision under PHMC § 6.30.160. (Ord. 816 § 1, 2006; Amended during 2005 recodification; Ord. 712 § 1, 1996; 1991 code § 6-24.6)

6.30.070 Name of business – Notification of changes.

A permittee may not operate under a name or conduct a business under a designation not specified in the permit. The permittee shall notify the chief of police in writing within 14 days of each change in the name, address or telephone number of the residence or business, and of each change in ownership of a business.

Failure to comply with this section is grounds for suspension or revocation of the permit. (Ord. 816 § 1, 2006; Ord. 712 § 1, 1996; 1991 code § 6-24.7)

6.30.080 Duration and renewal.

A permit issued under this chapter is valid during the calendar year issued. Before the beginning of each new calendar year, the chief of police shall mail a renewal notice to each permittee. Each permittee shall file an application for renewal on a form provided by the chief. The chief may deny a renewal application on any ground for which an original application could be denied. (Ord. 816 § 1, 2006; Ord. 712 § 1, 1996; 1991 code § 6-24.8)

6.30.090 Posting of permit – Identification cards.

The owner or operator of a massage establishment shall post a copy of the massage establishment permit in a conspicuous place on the premises. Each massage therapist shall wear or carry an identification card issued by the chief whenever engaged in the practice of massage. (Ord. 816 § 1, 2006; Ord. 712 § 1, 1996; 1991 code § 6-24.9)

6.30.100 Permit nontransferable.

A permit issued under this chapter is not transferable to another owner, establishment or massage therapist. (Ord. 816 § 1, 2006; Ord. 712 § 1, 1996; 1991 code § 6-24.10)

6.30.110 Massage establishment record keeping.

The operator of a massage establishment shall maintain: (A) a register of all massage therapists employed, including name, address, telephone, age, a recent photograph, and permit number; and (B) a daily register, approved in form by the chief, of each client, the assigned room, the massage therapist who treated the client, a description of service(s) performed and the time of the appointment. The daily register shall be completed by the close of business every day, and shall be available for inspection by the city at all times during regular business hours. The register shall be considered confidential, not for public review, and may be inspected by the city only as part of a criminal investigation or during proceedings to suspend or revoke a permit under this chapter.

An independent contractor massage therapist is responsible for compliance with subsection (B) of this section.

These records shall be retained at the massage establishment for at least one full year. (Ord. 816 § 1, 2006; Ord. 712 § 1, 1996; 1991 code § 6-24.11)

6.30.120 Facility requirements.

The operator of a massage establishment shall maintain and operate the establishment in a safe and sanitary manner, and shall:

A. Comply with all applicable building, fire, safety, health, electrical, plumbing, mechanical, heating and ventilating, sanitation, and other laws applicable to the premises;

- B. Provide for the regular removal of garbage and refuse, and the safe storage or removal of flammable materials;
- C. Maintain all equipment used to perform massage/bodywork services in a safe and sanitary condition, including the regular application of cleansers and bacterial cleaning agents;
- D. Launder all materials furnished for the personal use of the client, such as towels and linens, before each use;
- E. Maintain all bathroom and plumbing fixtures in a sanitary condition, provide hot and cold running water, and comply with sanitation requirements of the county health department;
- F. Provide a wash basin for therapists and employees, located within or as close as practicable to the area devoted to the massage therapy services. Each wash basin shall be equipped with hot and cold running water, soap in a dispenser and sanitary towels. In the case of a massage establishment located in a home, existence of a bathroom meeting this requirement is sufficient;
- G. Provide either a separate room or dressing and locker facilities for each client. However, dressing and undressing may occur in the same room as massage therapy if the client is alone in the room with the door(s) closed and opaque coverings are present on any windows while undressing or dressing. The massage therapist or other clients may not be present in the same room when the client is undressing;
- H. In each room or cubicle where massage is administered, have lighting whenever the area is occupied equivalent to a minimum of an incandescent 25-watt clear-glass light bulb;
- I. Not permit any massage activity in any cubicle, room, booth or area that has a door that is capable of being locked, unless the entire massage establishment is located within a single room;
- J. For a massage establishment in which the therapist is an employee, all massage services shall be paid for in the reception area, and all tips, if any, shall be paid in the reception area. For a massage establishment at which a therapist is an independent contractor, all massage services and all tips, if any, may be paid in the same room where the massage occurred, provided the door to the room is fully open. A massage establishment which is located in a home is exempt from this subsection because by the nature of the site it does not include a reception area. (Ord. 816 § 1, 2006; Ord. 712 § 1, 1996; 1991 code § 6-24.12)

6.30.130 Inspections.

The chief of police may inspect the premises before issuing a massage establishment permit, and may make periodic inspections of the establishment to assure compliance with this chapter. If any violations are found, the chief shall notify the establishment in writing. The chief may give the establishment 10 days to correct the violation(s), or, if the violation(s) presents a danger to public health or safety, suspend the permit and close the establishment until the violation(s) is corrected. (Ord. 816 § 1, 2006; Ord. 712 § 1, 1996; 1991 code § 6-24.13)

6.30.140 Hours of operation.

No massage establishment, no outcall massage service, and no massage therapist may provide massage/bodywork service between the hours of 10:00 p.m. and 7:00 a.m. All clients and visitors shall be excluded from a massage establishment during those hours. (Ord. 816 § 1, 2006; Ord. 712 § 1, 1996; 1991 code § 6-24.14)

6.30.150 Grounds for revocation or suspension.

The chief of police may revoke, or suspend for a specified time, a permit issued under this chapter for:

- A. Any reason for which an original application could be denied; or

- B. Any violation of this chapter, including the following acts of misconduct:
1. Being convicted (including a plea of nolo contendere) of a crime identified in PHMC § 6.30.060(C) or any crime which relates to the practice of massage/bodywork or the ability to practice the profession;
 2. An arrest for a crime identified in PHMC § 6.30.060(C) shall result in immediate suspension of the permit. The suspension shall continue until a decision is made not to bring criminal charges or the permittee is found not guilty;
 3. False, deceptive or misleading advertising. No massage establishment, massage therapist or massage establishment employee may advertise in such a manner as to suggest any service is available, including sexual services, other than massage/bodywork as defined in PHMC § 6.30.020;
 4. Aiding or assisting any unlicensed person to practice massage/bodywork contrary to this chapter, or delegating professional responsibilities to a person if the person is not qualified by training, experience and licensing to perform;
 5. Engaging, attempting, or offering to engage a client in sexual activity, including any genital contact, within a client/therapist relationship. A client is presumed to be incapable of giving free, full and informed consent to sexual activity with the massage therapist;
 6. Making deceptive, untrue, or fraudulent representations in the practice of massage/bodywork, or employing a trick or scheme in the practice;
 7. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the permittee knows or has reason to know he or she is not competent to perform;
 8. Refusing to permit the chief to inspect the premises during regular business hours;
 9. Practicing massage/bodywork at a location which is not licensed as a massage/bodywork establishment, except that the therapist may provide massage/bodywork services at the residence of the client;
 10. Being unable to practice massage/bodywork with reasonable skill and safety to clients by reason of illness; use of alcohol, drugs, narcotics or chemicals; or as a result of a mental or physical condition;
 11. Gross or repeated malpractice or the failure to practice massage/bodywork with the level of care, skill, and treatment which is recognized by a reasonably prudent similar therapist as being acceptable under similar conditions and circumstances;
 12. Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition;
 13. Failing to provide to each patron clean, sanitary and opaque coverings, or giving or permitting a massage to be given when the client's specified anatomical areas are not covered by the covering provided. "Specified anatomical areas" means the pubic region, genitals, perineum, anal region, and the area of the female breast below a point immediately above the top of the areola;
 14. For a massage establishment, failing to:
 - a. Regulate and monitor its employees as evidenced by the suspension or revocation of the massage therapist permit of one of its employees. An act or omission of a person performing massage shall be deemed the act or omission of the holder of the massage establishment permit for the purposes of determining whether the permit is revoked or suspended, whether or not the massage establishment had actual knowledge; or
 - b. Regulate and monitor its independent contractors as evidenced by the suspension or revocation of the massage therapist permit of one of its independent contractors. An act or omission of a person performing massage shall be deemed the act or omission of the holder of the massage establishment permit for the purposes of determining whether the permit is revoked or suspended, whether or not the massage establishment had actual knowledge; or
 - c. Comply with PHMC § 6.30.070. (Ord. 816 § 1, 2006; Ord. 712 § 1, 1996; 1991 code § 6-24.16. Formerly 6.30.170)

6.30.160 Appeals.

A person may appeal a decision of the chief in accordance with PHMC Chapter 1.10, except that the decision of the city manager or his or her designee is final and may not be appealed to the city council.

During an appeal from a revocation or suspension, the massage establishment or massage therapist may continue to operate, unless the reason for the revocation or suspension involved:

- A. A serious danger to the public health or safety;
- B. The arrest of the massage therapist for any offense listed in PHMC § 6.30.060(C); or
- C. The arrest of an employee, independent contractor, owner or manager for any offense listed in PHMC § 6.30.060(C), based on conduct occurring on the premises of the massage establishment. (Ord. 816 § 1, 2006; Ord. 712 § 1, 1996; 1991 code § 6-24.17. Formerly 6.30.170)

6.30.170 Fees.

An applicant for a permit, renewal or appeal under this chapter shall pay a fee in the amount established by resolution of the city council. The fee is to defray the cost of investigation, inspection and permit issuance. (Ord. 816 § 1, 2006; Ord. 712 § 1, 1996; 1991 code § 6-24.18. Formerly 6.30.180)

6.30.180 Property owner responsibility.

Any place where lewdness, assignation or prostitution occurs is a public nuisance which may be abated and permanently enjoined, and for which the city may recover damages from the property owner, as well as from the person conducting or maintaining the nuisance. (Cal. Penal Code §§ 11225 and 11226.) (Ord. 816 § 1, 2006)