

Chapter 9.28 MESSAGE ESTABLISHMENTS AND MASSEURS

9.28.010 Definitions.

- A. For the purposes of this chapter, the following words and phrases shall have the following meanings:
1. "Employee" means and includes all persons paid directly by the permittee, except that persons, other than masseurs, rendering services as independent contractors shall not be deemed "employees" within the meaning of this chapter.
 2. "Massage" means a method of treating the external parts of the body for remedial or hygienic purposes by rubbing, stroking, kneading, adjusting or tapping with the hand or an instrument. "Massage" does not include therapy that is a means employed in the cure of disease, the management of disease or of diseased parts of the body.
 3. "Massage establishment" means any place of business wherein a massage is given, engaged in or carried on, or permitted to be given, engaged in or carried on, either as a primary or secondary use.
 4. "Masseur" means any person who engages in the practice of massage, as defined in this section. "Masseur" shall also include masseuse, massage therapists, "body worker," "body work therapist," and/or massage practitioner.
 5. "Outcall massage service" means any business not licensed as a massage establishment under the provisions of this chapter wherein the principal function is such that a massage is given, engaged in or carried on, or permitted to be given, engaged in or carried on.
 6. "Person" means any individual, co-partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.
- B. The foregoing definitions shall not include hospitals, nursing homes, sanitariums, persons holding an unrevoked certificate or license to practice the healing arts under the laws of the state, persons holding an unrevoked certificate or license as a physical therapist, or persons working under the direction of any such persons in any such establishments. (Ord. 1453 § 2, 2010)

9.28.020 Existing businesses—Applicability.

The provisions of this chapter shall be applicable to persons now engaged in the business regulated in this chapter. (Ord. 1453 § 2, 2010)

9.28.030 Existing businesses—Deadline for filing for new permit.

Persons now engaged in the business referred to in this chapter, either as an operator of a massage establishment or an outcall massage service, shall file for a permit required by Section [9.28.040](#) of this chapter within thirty days of the effective date of the ordinance codified in this chapter; failure to do so shall make continued operation of the place of business a violation of Section [9.28.040](#) of this chapter. (Ord. 1453 § 2, 2010)

9.28.040 Massage establishment, outcall service—Permit—Required.

It is unlawful for any person to engage in, conduct, operate or carry on, or to permit to be engaged in, conducted, operated or carried on, in or upon any premises in the city, the operation of a massage establishment or an outcall massage service, as herein defined, without first having obtained a permit from the police department, issued pursuant to the provisions of this chapter. (Ord. 1453 § 2, 2010)

9.28.050 Applicant for massage establishment or out-call massage service permit to file application and pay filing fee.

Every applicant for a permit sought under this chapter shall file an application with the police chief upon a form provided by the police chief, and shall pay a filing fee at the city finance department. The amount of the fee shall be set by resolution in an amount to cover the actual costs of administration. Evidence of the payment of the fee shall be presented with the application to the police chief. (Ord. 1453 § 2, 2010)

9.28.060 Massage establishment, outcall service—Permit—Application information requirements.

- A. The application for a permit sought under this chapter shall set forth the proposed place of business and facilities therefor, and the name and address of each applicant.
 - 1. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation; the names and residence addresses of each of the officers, directors and each stockholder owning more than ten percent of the stock of the corporation.
 - 2. If the applicant is a partnership, the application shall set forth the name and residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant apply.
- B. In addition to the foregoing, any applicant for a permit shall furnish the following information:
 - 1. The last previous business and residential addresses immediately prior to the present or proposed business address of the applicant;
 - 2. Written proof that the applicant is over the age of eighteen years;
 - 3. The massage or similar business license history of the applicant; whether such person, in previously operating in this or another city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation of applicant subsequent to such action or suspension or revocation;
 - 4. All criminal convictions;
 - 5. Two copies of applicant's fingerprints on forms provided by the police department.
- C. A corporation or partnership shall be deemed to have complied with the provisions of Subsection B of this section if the president, managing director, or managing partner thereof has complied with its provisions. (Ord. 1453 § 2, 2010)

9.28.070 Masseur permit not required.

Masseurs who are operating under a valid certificate issued by the Massage Therapist Organization (also known as the California Massage Therapy Council), per Chapter 10.5 (Commencing with Section 4600) of Division 2 of the California [Business and Professions Code](#) relating to massage therapy shall not be required to obtain any additional permit from the city of Manteca, provided however, that such person

and business shall not be exempted from this chapter if Chapter 10.5 is repealed. Only those individuals possessing such a valid certificate may lawfully conduct business as a masseur under this code. (Ord. 1453 § 2, 2010)

9.28.080 Applications—Verification.

Every application for a permit under this chapter shall be verified by the applicant under penalty of perjury. (Ord. 1453 § 2, 2010)

9.28.090 Applications—Referral to departments for inspection and recommendations.

The police chief, upon receiving an application for a massage establishment permit or an outcall massage service permit, shall refer the applications to the city building official, the fire chief, and the city planning department, which officials and departments shall inspect the premises proposed to be devoted as a massage establishment and shall make separate written recommendations to the police chief concerning compliance with the respective requirements within ten days after receipt of the aforementioned referral. (Ord. 1453 § 2, 2010)

9.28.100 Massage establishment, outcall service—Permit issuance conditions.

The police chief shall issue a permit within fourteen days following the receipt of the written recommendations required by Section [9.28.090](#) of this chapter if all of the provisions of this chapter have been met, and shall issue a permit to all persons who have applied to perform massage services, unless he or she finds:

- A. That the operation as proposed by the applicant, if permitted, would not comply with all applicable ordinances and laws;
- B. That the applicant has been convicted of:
 - 1. An offense involving conduct which requires registration pursuant to Section 290 of the [Penal Code](#) of the state,
 - 2. An offense involving the use of force and violence upon the person of another that constitutes a felony,
 - 3. An offense involving sexual misconduct with children, or
 - 4. An offense as defined under Sections 311, 647(a), 647a, 647b, 315, 316 or 318 of the [Penal Code](#) the state; or
- C. If it reasonably appears that the location of the business, after review of the reports required by Section [9.28.100](#), is not a suitable place in which to conduct or maintain such business or calling. (Ord. 1453 § 2, 2010)

9.28.110 Employees—Register of employees.

No operator of a massage establishment or an outcall massage service, as defined in this chapter, shall employ any person on the premises unless and until such person has a valid certificate issued by the Massage Therapist Organization (also known as the California Massage Therapy Council). The operator of such establishment must maintain a register of all persons so employed and their permit number, which register shall be available for inspection at all times during regular business hours. (Ord. 1453 § 2, 2010)

9.28.120 Display of massage establishment and outcall service permits.

Every person to whom or for whom a permit has been granted pursuant to the provisions of this chapter shall display the permit in a conspicuous place so that the same may be readily seen by persons entering the premises; or persons engaged in an outcall massage service must have their permit available for inspection at all times. (Ord. 1453 § 2, 2010)

9.28.130 Name and place of business—Restrictions.

- A. No person who is granted a permit issued pursuant to this chapter shall operate under any name or conduct his or her business under any designation not specified in his or her permit.
- B. Permittee shall notify the police department of any changes in name or address of home or business. In case of any change of location or extension of the place of business, inspection thereof shall be made, as required in this chapter, before use of the same for the purpose of such business, and an amended permit shall be issued within thirty days, if indicated, in order to show clearly the address or place of such new location or extension. No fee shall be charged either for such inspection or for such amended permit. (Ord. 1453 § 2, 2010)

9.28.140 Sale or transfer of business voids permit.

Upon sale or transfer of a massage establishment or an outcall massage service, the permit and license therefor shall be null and void. (Ord. 1453 § 2, 2010)

9.28.150 Permits not transferable.

A permit issued under the provisions of this chapter is not transferable. (Ord. 1453 § 2, 2010)

9.28.160 Inspection of massage establishments.

The police department and the chief building official shall, from time to time, make an inspection of each massage establishment in the city for the purpose of determining compliance with the provisions of this chapter. (Ord. 1453 § 2, 2010)

9.28.170 Employees—Persons under eighteen years of age prohibited.

It is unlawful for the owner, proprietor, manager or any other person in charge of any massage establishment or outcall massage service to employ any person who is not at least eighteen years of age. (Ord. 1453 § 2, 2010)

9.28.180 Permit suspension or revocation conditions—Massage establishment or outcall service.

Any permit issued for a massage establishment or outcall massage service may be revoked or suspended by the police chief after a hearing conducted pursuant to Section [9.28.190](#) of this chapter on any of the following grounds:

- A. Violation of any of the provisions of this chapter;

B. Conviction of:

1. Any crime requiring registration under Section 290 of the California [Penal Code](#),
2. Any violation of Section 311, 647(a), 647a, 647b, 650, 315, 316 or 318 of the California [Penal Code](#); or
3. Any crime involving moral turpitude.

(Ord. 1453 § 2, 2010)

9.28.190 Permit suspension or revocation conditions—Hearing required—Notice.

Prior to the revocation or suspension of any permit issued pursuant to the provisions of this chapter, a hearing shall be held by the police chief. Written notice of the grounds for the hearing, as well as its time and place, shall be mailed to the permittee seven days prior to the hearing. Within twenty-four hours after the conclusion of the hearing, the police chief shall provide written notice to permittee of his or her decision and the findings of fact upon which the decision is based. (Ord. 1453 § 2, 2010)

9.28.200 Denial, suspension or revocation of permit—Hearing—Council findings by resolution.

- A. Within five days after receiving written notification that an application for a permit required under this chapter has been denied, revoked or suspended, the applicant or permittee may file with the city clerk a written statement, addressed to the city manager, requesting a hearing to appeal the decision of the police chief, stating therein written exceptions to the findings of fact upon which the police chief based his or her denial, revocation or suspension. Such exceptions shall include, but not be limited to, the grounds upon which the applicant or permittee believes the decision of the police chief should be reversed. Upon the filing of such statement, the city manager shall fix a time, date and place for a hearing thereon, and shall notify the applicant or permittee thereof. In the case of an application which has been denied, the hearing shall be held not later than thirty days from the date on which the written statement was filed with the city clerk; in the case of a revocation or suspension of a permit, such hearing shall be held not later than fifteen days from the date on which the written statement was filed with the city clerk. At the hearing, the applicant or permittee may present evidence in support of his or her statement. Any interested party may, in the discretion of the city manager, be allowed to participate in the hearing and present evidence in support of or in opposition to the applicant or permittee.
- B. The city manager shall, no later than fifteen days after the conclusion of the hearing, make findings of fact and either uphold or overrule the decision of the police chief, subject to any reasonable conditions thereto as he or she deems appropriate. The city manager in their decision shall state the facts upon which its decision is based, and their ruling upon any exception to the police chief's original findings of fact. A copy of the city manager's decision shall be served by mail upon the applicant. The action of the city manager shall be final. (Ord. 1453 § 2, 2010)