

CITY OF ESCONDIDO
CALIFORNIA

ARTICLE 38

MASSAGE ESTABLISHMENTS

(Adopted 01/14/15 by Ord. 2015-01R; Effective 02/15/15)

Escondido Planning Commission

Meetings: 2nd & 4th Tuesday of each month
7:00 p.m. City Council Chambers
201 North Broadway, Escondido

ESCONDIDO PLANNING DIVISION
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**This document contains the recently adopted code
amendments pertaining to massage establishments:**

Article 38 – Massage Establishments	(Page 2 – 3)
East Valley Parkway Area Plan	(Page 4 – 9)
South Escondido Boulevard Area Plan	(Page 10 – 11)
Downtown Specific Plan	(Page 12 – 17)
Municipal Code – Section 16A	(Page 18 – 25)

ARTICLE 38. MASSAGE ESTABLISHMENTS

Sec. 33-750. Purpose.

It is the purpose and intent of this chapter to regulate the operations of massage establishments, which tend to have judicially recognized adverse secondary effects on the community, including, but not limited to, increases in crime in the vicinity of massage establishments; decreases in property values in the vicinity of massage establishments; increases in vacancies in residential and commercial areas in the vicinity of massage establishments; interference with residential property owners' enjoyment of their properties when such properties are located in the vicinity of massage establishments as a result of increases in crime, litter, noise, and vandalism; and the deterioration of neighborhoods. Special regulation of these businesses is necessary to prevent these adverse secondary effects and the blighting or degradation of the neighborhoods in the vicinity of massage establishments. (Ord. No. 2015-01R, § 5, 1-14-15)

Sec. 33-751. Definitions.

In addition to any other definitions contained in the municipal code, all words and phrases included in this chapter pertaining to massage establishments shall be consistent with the definitions in Chapter 16A, Article 1, section 16A-1, unless it is clearly apparent from the context that another meaning is intended.

Businesses, including day spas, salons, beauty parlors, barber shops, etc., that provide up to fifteen (15) percent of their gross floor area for massage activities are not considered massage establishments, however, persons administering massages at said establishments shall comply with all state and local licensing provisions. (Ord. No. 2015-01R, § 5, 1-14-15)

Sec. 33-752. Location of massage establishments.

(a) Massage establishments, as defined in Chapter 16A, Article 1, section 16A-1 of this code,

shall be a permitted use only in certain commercial shopping centers listed below:

Center Name	Address
Civic Center Plaza	311 - 445 N. Escondido Boulevard
Del Norte Plaza	302 - 358 W. El Norte Parkway
El Norte Parkway Plaza	1000 W. El Norte Parkway
Escondido Gateway	810 - 860 W. Valley Parkway
Escondido Promenade Center	1200 - 1290 Auto Parkway
Ferrara Plaza	2401 - 2447 E. Valley Parkway
Major Market Shopping Center	1805 - 1895 S. Centre City Parkway
Plaza las Palmas	970 - 1138 W. Valley Parkway
Westfield North County	200 - 298 E. Via Rancho Parkway

(b) Massage establishments, as defined in Chapter 16A, Article 1, section 16A-1 of this code, not located within commercial shopping centers listed in subsection (a) shall be permitted in the General Commercial (CG) zone subject to a conditional use permit pursuant to Article 61 unless otherwise prohibited.

(c) A massage establishment legally established prior to the adoption of this ordinance operating with a valid business license and other appropriate approvals that does not comply with subsection (a) or (b) shall be considered a legal nonconforming use pursuant to Article 61, Division 3.

(d) Any person violating or causing the violation of any locational provisions regulating massage establishments pursuant to this section shall be subject to the remedies of section 33-753 of this article.

(e) The requirements of subsections (a), (b), and (c) of this section shall be in addition to any

other relevant provisions of this code. (Ord. No. 2015-01R, § 5, 1-14-15)

Sec. 33-753. Violations.

(a) Any person operating or causing the operation of a massage establishment on any parcel in which no application for a massage establishment permit under Chapter 16A has been granted, or any person violating or causing the violation of any of the locational provisions regulating massage establishments shall be subject to license revocation/suspension pursuant to section 16A-16, a fine of not more than one thousand dollars (\$1,000.00) pursuant to Government Code sections 36900 and 36901, and any and all other civil remedies. All remedies provided herein shall be cumulative and not exclusive. Any violation of these provisions shall constitute a separate violation for each and every day during which such violation is committed or continued.

(b) In addition to the remedies set forth in subsection (a), any violation of any of the locational provisions pursuant to section 33-752 regulating massage establishments is hereby declared to constitute a public nuisance and may be abated or enjoined.

(c) If a massage establishment permit is revoked, or not renewed as a result of violations, no massage establishment permit may be issued at that location for a period of five years from the date of revocation or non-renewal. (Ord. No. 2015-01R, § 5, 1-14-15)

Sec. 33-754. Regulations nonexclusive.

The provisions of this chapter regulating massage establishments are not intended to be exclusive, and compliance therewith shall not excuse noncompliance with any other provisions of the municipal code and/or any other regulations pertaining to the operation of businesses as adopted by the city council of the City of Escondido. (Ord. No. 2015-01R, § 5, 1-14-15)

Sec. 33-755. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this article and the ordinance to which it is a part, or any part thereof is held for any reason to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, the remaining sections, subsections, paragraphs, sentences, clauses, and phrases shall not be affected thereby. The city council hereby declares that it would have adopted this article and the ordinance to which it is a part regardless of the fact that one or more sections, subsections, paragraphs, sentences, clauses, or phrases may be determined to be unconstitutional, invalid, or ineffective. (Ord. No. 2015-01R, § 5, 1-14-15)

Secs. 33-756—33-759. Reserved.

EAST VALLEY PARKWAY AREA PLAN

Table 4.1

PERMITTED AND CONDITIONALLY PERMITTED PRINCIPAL USES

USE TITLE	CG	CP	HP
RESIDENTIAL AND LODGING:			
• Bed and Breakfast (Article 32*)	C*		C*
• Hotels and Motels (Article 63*)	C*		
• Lodging for organization members only	C		
• Mobile home or travel trailer parks (Articles 45 & 46*)	C*		
• Multi-family residential as part of a mixed-use project	PD		
MANUFACTURING, WHOLESALE TRADE, AND STORAGE:			
• Any use or structure permitted or conditionally permitted in a zone and involving hazardous materials (Section 33-666*)	C*	C*	C*
• Mini-warehouse storage facilities (Section 33-339*)	C*		
• Newspaper printing and publishing	P		
RETAIL TRADE:			
Automotive and marine craft			
• Automotive parts and accessories sales with no repair or installation	P		
• Gasoline service stations including concurrent sale of alcoholic beverages and motor vehicle fuel (Article 57* and Council Resolution #5002*)	C*		
Food Sales			
• Food stores (grocery, produce, candy, baked goods, meat, delicatessen, etc.), excluding sale of liquor, tobacco and smoking-related products as primary use)	P		
• With facilities to dispense gasoline (Article 57*)	C*		
General Retail			
• Antique and Consignment stores	P		
• Building materials and supplies including lumber, heating, plumbing, and electrical equipment, etc. (Outdoor storage or sale subject to CUP)	P		
• Drugstores	P	P	
• Florists, gifts, cards, newspapers and magazines	P	P	P
• Furniture, home and office furnishing and equipment, electrical appliances, and office machines and supplies	P		
• General retail of new merchandise, NEC (as determined by the Director of Community Development, based on conformance with the	P		

USE TITLE	CG	CP	HP
purpose of the specific zone, interaction with customers, the appearance of the building, the general operating characteristics, the type of vehicles and equipment associated with the use, and including incidental assembling of customized items);			
<ul style="list-style-type: none"> • Hospital/medical equipment sales • Nurseries and garden supply stores • Outdoor retail, NEC (as a principal use) • Pharmacies • Sporting goods (includes ammunition and firearms, fishing, hunting, golf, playground equipment, etc.) • Temporary seasonal sales such as Christmas tree and wreath sales, pumpkin sales, etc., on vacant lots subject to site plan approval 	<p>P P C P P P</p>	<p>P</p>	<p>P P</p>
EATING AND DRINKING ESTABLISHMENTS:			
Cabarets and nightclubs (with or without alcoholic beverages, including comedy clubs, magic clubs, etc.)	C		
Drinking places-alcoholic beverages (on-sale beer and wine and on-sale general licenses and public premises) includes bars and taverns, does not include restaurants serving alcoholic beverages.	C		
Restaurants, cafes, delicatessens, sandwich shops, etc. without alcoholic beverages	P	P	P
<ul style="list-style-type: none"> • With on-sale beer and wine and on-sale general licenses 	P		
<ul style="list-style-type: none"> • Auto oriented drive-in, drive-through (Section 33-341*) 	P*		
<ul style="list-style-type: none"> • Specialized food sales from pushcart facilities (Section 33-342*) 	P*	P*	P*
SERVICES:			
Animal Care (excluding kennels)	P		
Automotive services (including motorcycles, motorized vehicles, marine craft and recreational vehicles)			
<ul style="list-style-type: none"> • Auto repair and service in freestanding or single tenant building 	C		
<ul style="list-style-type: none"> • Auto repair and service in multi-tenant centers which were comprehensively designed and approved for automotive repair prior to Area Plan 	P		
<ul style="list-style-type: none"> • Car-wash, polishing, detailing as primary use 	C		
Educational services			
<ul style="list-style-type: none"> • Day nurseries, child care centers (Article 57*) 	C*	C*	C*

USE TITLE	CG	CP	HP
<ul style="list-style-type: none"> Schools, including kindergarten, elementary, junior, and senior high schools (Article 57*) 	P*		C*
<ul style="list-style-type: none"> Special needs education 	P	P	P
<ul style="list-style-type: none"> University, college, junior college, and professional schools 	P	P	C
<ul style="list-style-type: none"> Vocational and trade schools 	P	P	
<ul style="list-style-type: none"> Other special training (including art, music, drama, dance, language, etc.) 	P		
Government services			
<ul style="list-style-type: none"> Administrative centers and courts 	P	P	C
<ul style="list-style-type: none"> Employment and training services 	P	P	P
<ul style="list-style-type: none"> Operation Centers 	C	C	C
<ul style="list-style-type: none"> Police and fire stations 	C	C	C
<ul style="list-style-type: none"> Postal services 	P	P	P
Financial services and institutions			
<ul style="list-style-type: none"> Banks, securities brokers, credit offices (excluding check cashing as a primary use) 	P	P	
<ul style="list-style-type: none"> Insurance 	P	P	P
Medical, dental and related health services			
<ul style="list-style-type: none"> Counseling services 	C	C	C
<ul style="list-style-type: none"> Hospitals, excluding small medical clinics 	C	C	C
<ul style="list-style-type: none"> Medical clinics and blood banks 	P		P
<ul style="list-style-type: none"> Medical, dental, optical, and other health care offices and laboratories 	P	P	P
<ul style="list-style-type: none"> Sanitariums, convalescent and residential care facilities 	C		C
<ul style="list-style-type: none"> Other medical and health services NEC 	C	C	C
<ul style="list-style-type: none"> <u>Massage Establishments (Article 38*)</u> 	<u>P/C</u>		
Offices and business services, except medical			
<ul style="list-style-type: none"> Call centers and telemarketing services 	C	C	C
<ul style="list-style-type: none"> General business services (including advertising, building services, credit reporting, detective/protective services, drafting, employment services, news syndicate, computer services, etc.) 	P	P	P
<ul style="list-style-type: none"> General office use (includes professional offices, legal services) 	P	P	P
<ul style="list-style-type: none"> Mailing, stenographic, accounting and office services 	P	P	P
<ul style="list-style-type: none"> Messenger services 	P	P	P
<ul style="list-style-type: none"> Real estate services 	P	P	
<ul style="list-style-type: none"> Travel agencies and services 	P	P	
Repair services, except automotive			
<ul style="list-style-type: none"> Apparel and shoe repair and alteration 	P		
<ul style="list-style-type: none"> Bicycle repair 	P		

USE TITLE	CG	CP	HP
<ul style="list-style-type: none"> • Locksmiths and key shops • Miscellaneous repair services (excluding machine shops and welding services) • Small appliance repair and services (including TV, radio, VCR, computers, household appliances, etc.) • Watch, clock, and jewelry repair 	<p>P P P P</p>	<p>P P</p>	
Social, professional, and religious organizations and services			
<ul style="list-style-type: none"> • Churches, synagogues, temples, missions, religious reading rooms, and other religious activities including columbaria and mausoleums as an incidental use (Article 57*) 	C*	C*	C*
<ul style="list-style-type: none"> • Professional organizations (political membership, veterans, civic, labor, and similar organizations, etc.) 	P	P	P
<ul style="list-style-type: none"> • Social services and charitable organizations including only office and administrative activities, and excluding direct distribution of goods or services to the ultimate client at this location 	P	P	P
<ul style="list-style-type: none"> • Youth Organizations (Article 57*) 	C*		
Other services			
<ul style="list-style-type: none"> • Assembly halls, fraternities, sororities, lodges, etc. 	C		
<ul style="list-style-type: none"> • Barber, beauty, nail, and tanning services, excluding tattoo parlors 	P	P	P
<ul style="list-style-type: none"> • Hospital/medical equipment rental and leasing 	P		P
<ul style="list-style-type: none"> • Laundry and dry cleaning services: 			
<ul style="list-style-type: none"> • Self-service, coin-operated 	P		
<ul style="list-style-type: none"> • Pick-up service only 	P	P	
<ul style="list-style-type: none"> • Dry cleaning, laundering, pressing and dying for on-site retail customers only 	P		
<ul style="list-style-type: none"> • Mortuary (excluding crematories and mausoleums) 	P		P
<ul style="list-style-type: none"> • Personal services, NEC (including clothing and costume rental, marriage bureaus, baby-sitting services, etc.) 	P		
<ul style="list-style-type: none"> • Photographic and duplicating services: 			
<ul style="list-style-type: none"> • Blueprinting and photocopying 	P	P	P
<ul style="list-style-type: none"> • Studios, developing, printing, and similar services, except commercial photography 	P	P	P
<ul style="list-style-type: none"> • Commercial photography, including aerial photographs and mapping services 	P		P
<ul style="list-style-type: none"> • Picture framing, assembly only 	P		
<ul style="list-style-type: none"> • Recycling Services 			
<ul style="list-style-type: none"> • Reverse vending machines occupying a total of fifty (50) square feet or less (Article 33*): 	P*	P*	P*

USE TITLE	CG	CP	HP
<ul style="list-style-type: none"> • Small collection facilities occupying a total of five hundred (500) square feet or less (Article 33*): 	P*	P*	P*
<ul style="list-style-type: none"> • Aluminum can and newspaper redemption center without can crushing facilities (Article 33*): 	C*		
CULTURAL ENTERTAINMENT AND RECREATION:			
<ul style="list-style-type: none"> • Adult entertainment establishments (Article 42*) 	P*		
<ul style="list-style-type: none"> • Amusement assembly, including amusement parks, arcades, dance halls, drive-in movie theaters, miniature golf, go-carts, electronic game centers, etc. 	C		
<ul style="list-style-type: none"> • Cultural, including museums, art galleries, etc. 	P	P	
<ul style="list-style-type: none"> • Entertainment assembly, including gymnasiums, athletic clubs, body building studios, dance studios, martial arts schools, etc. 	C		
<ul style="list-style-type: none"> • Health and fitness facilities, including gymnasiums, athletic clubs, body building studios, dance studios, martial arts schools, etc. 	P	C	C
<ul style="list-style-type: none"> • Libraries 	P	P	C
<ul style="list-style-type: none"> • Parks 	P	P	P
<ul style="list-style-type: none"> • Sports and recreation facilities, including bowling alleys, billiards, indoor and outdoor skating facilities, batting cages, riding schools and stables, etc. 	C		
<ul style="list-style-type: none"> • Swimming schools and pools 	C		
<ul style="list-style-type: none"> • Theaters, indoor motion picture and legitimate 	P		
TRANSPORTATION, COMMUNICATIONS AND UTILITIES:			
Transportation			
<ul style="list-style-type: none"> • Ambulance and paramedic 	C		C
<ul style="list-style-type: none"> • Bus and train depots 	P		
<ul style="list-style-type: none"> • Park-and-ride facilities 	P	P	P
<ul style="list-style-type: none"> • Parking lots and parking structures (short term) 	P	P	P
<ul style="list-style-type: none"> • Taxicab stand 	P		P
Communications (telephone, telegraph, radio, TV, etc.)			
<ul style="list-style-type: none"> • Broadcasting (radio and/or television), recording, and/or sound studios 	P	P	
<ul style="list-style-type: none"> • Personal wireless service facilities 			
<ul style="list-style-type: none"> • roof-mounted or building-mounted facilities incorporating stealthy designs and/or screened from public ways or significant views (Article 34*) 	P*	P*	P*
<ul style="list-style-type: none"> • pole-mounted or ground-mounted facilities that incorporate stealthy designs and do not exceed 35' in height (Article 34*) 	P*	P*	P*

USE TITLE	CG	CP	HP
<ul style="list-style-type: none"> • pole-mounted or ground-mounted facilities that exceed 35' in height or roof-mounted or building-mounted designs which project above the roofline and are not completely screened or considered stealthy (Article 34*) 	C*	C*	C*
<ul style="list-style-type: none"> • Other communications, NEC 	C	C	
<ul style="list-style-type: none"> • Radio and television transmitting towers 	C	C	
<ul style="list-style-type: none"> • Telephone exchange stations and telegraph message centers 	P	P	
<p>Utilities (electric, gas, water, sewage, etc.)</p>			
<ul style="list-style-type: none"> • Central processing, regulating, generating, control, collection, storage facilities and substations 	C	C	C
<ul style="list-style-type: none"> • Distribution facilities 	P	P	P

* = Subject to special regulations –see Zoning Code Article in parentheses

NEC = Not Elsewhere Categorized

SOUTH ESCONDIDO BOULEVARD AREA PLAN

Section 8. Conditional Use Permits.

(a) The uses which are normally allowed by right in the CG or CT zones and are not listed as permitted uses within this ordinance shall require a conditional use permit and are subject to Section 33-1203 of Article 61 of the Zoning Code. Such conditional uses include, but are not limited to, those which special emphases are listed below:

<u>Use No.</u>	<u>Use Title</u>
1400	Mobile home Parks
1500	Transient lodgings (requires Planning Commission consideration and City Council approval) (pursuant to Ord. 87-28; 8/7/87, and Ord. 91-5; 4/3/91) (See also (c) and (d) of this section)
4753	Satellite dish antennas pursuant to Article 34
5210	Lumber and other building material
5410	Groceries to include concurrent sale of alcoholic beverages and motor vehicle fuel, and convenience stores (See Sec. 8(g)) (Ord. 87-69; 2/6/88)
5511	Auto sales – new and used
5512	Auto sales – used
5520	Tires, batteries and accessories (excluding recapping and vulcanizing)
5530	Gasoline service stations (in accordance with Section 33-1115 (to include concurrent sale of alcoholic beverages and motor vehicle fuel with four or fewer pumps) (Ord. 87-69; 2/6/88)
5820	Drinking places – alcoholic beverages
6100	Finance services with drive-thru tellers
6296	Massage Establishments pursuant to Article 38
6397	Auto, truck and trailer rental (Area B only)
6411	Automobile repair (except body shop) (Area A)
6412	Tire rethreading and recapping (Area A)
6416	Automated Carwashes (Area B only)
6416-6417	Carwash Facilities (within Area "A" only on properties where automotive businesses [a gas station, car lots, auto sales and/or service, etc.] have been previously located and permitted)
6419	Other automobile services, except repair and wash, NEC
6513-6516	Sanitariums, convalescent and rest home facilities (Area A) (Permitted in Area B)
6910	Religious activities

(b) An existing Conditional Use Permit may be expanded by ten percent or 1,000 SF, whichever is less and may be exempted by the Director of Planning and Building from Conditional Use Permit processing requirements. Expansion beyond the established thresholds shall conform to this Article.

(c) Transient lodging existing at the time of adoption of this ordinance may continue to operate and shall be subject to Ord. 91-5. 4/3/91, and Ord. 89-36. 8/2/89.

(d) Existing transient lodging whereby the average length of stay exceeds the 30 day limit requirement established in Ord. 91-05 may be exempt from those provisions, as determined by the Director of Planning and Building, provided the following findings are made:

1) The property has been historically used for transient lodging in which the average stay exceeds 30 days.

2) The structures do not threaten the public health, safety and welfare.

3) Smoke detectors have been provided in each unit and inspections of heating and ventilation systems shall be performed biyearly and evidence of these inspections are submitted to the satisfaction of the Planning and Building Department.

(f) All drive-through facilities such as drive-through restaurants, drive-through dairies, drive-through grocery stores, and drive-through banks which are either an incidental use to the primary use or constitute the primary use require a conditional use permit.

(g) A convenience market includes the retail sales of food, beverages and small convenience items primarily for off-premises consumption and typically found in establishments with long or late hours of operation and a relatively small building. This definition excludes delicatessens and other specialty food shops and establishments having a sizeable assortment of fresh fruits and vegetables and fresh cut meat.

DOWNTOWN SPECIFIC PLAN
FIGURE II-2
PERMITTED AND CONDITIONAL USES
 (Page 1 of 6)

<u>LAND USE</u>	HD*	PV	CCU	GT	M	SG*	CN
RESIDENTIAL AND LODGING (in accordance with Figure II-3A)							
Bed-and-breakfast establishments (subject to regulations of Article 32 of the Zoning Code)						C	C
Residential-care facilities						C	C
Hotels and Motels (subject to regulations of Article 63 of the Zoning Code)	C	C	C	C	C	C3	
Residential above ground floor in specified areas, in conjunction with permitted non-residential use on ground floor (refer to Figure II-3 for appropriate locations and housing types)	P	P9	P	P	P	P	P
Residential, on ground floor in specified areas (refer to Figures II-3 and II-4 for appropriate locations and housing types)	P7, P8	P8, P9	P8	P8	P8	P8	P
Home Occupations (subject to regulations of Article 44 of the Zoning Code)	P5	P5	P5	P5	P5	P5	P5
GENERAL RETAIL							
New merchandise sold in department stores, drugstores, pharmacies, and retail establishments selling toys, flowers, gifts, stationery, jewelry, leather, apparel, shoes (including repair), china, glassware, pottery, crafts, cigars, yardage goods, pets, hobbies, art supplies, automobile supply stores (without installation), video sales and rental, music (including incidental recording, instruction and instrument repair), books / magazines / newspapers, sporting goods, bicycles / cameras / electronics / office business / small household appliance sales and service, and other similar retail goods and incidental services NEC. Prohibited uses include retail uses with across the board maximum pricing or "everything under" pricing and surplus goods.	P	P	P	P	P	P3	P6
Previously owned goods and merchandise including antiques, collectibles, coins, consignment and stamps, excluding pawn shops, second hand and thrift stores.							
Automobile supply stores with incidental installation				P		P3	

NOTES:

P = Permitted C = Conditional Use Permit required

- 1 Under 3,000 square feet.
- 2 Within Grand Avenue's "retail-core area" use is not permitted on ground floor facing Grand Avenue unless located behind a solid wall, and such wall shall be located at least 25% of the building depth back from the front, with a minimum of 25 feet of front retail depth, whichever is more. Primary entrance to this use must be from the alley. No signage facing Grand Avenue is permitted.
- 3 Only permitted on Escondido Boulevard.
- 4 Only permitted within a multi-tenant building, and shall not occupy more than 30% of the gross floor area.
- 5 Only in conjunction with an approved residential project.
- 6 Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kalmia and Ivy Streets.
- 7 Not allowed along Grand Avenue on ground floor within the "retail core area."
- 8 Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
- 9 No residential uses permitted between Woodward Avenue, Washington Avenue, Escondido Boulevard and Broadway.
- 10 Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
- 11 Permitted on Local Historic Register properties.
- * Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.

DOWNTOWN DISTRICTS:

- HD Historic Downtown
- PV Park View
- CCU Centre City Urban
- GT Gateway Transit
- M Mercado
- SG Southern Gateway
- CN Creekside Neighborhood

NOTE: Should a conflict arise between this matrix and the land-use district text, the land use district text discussion shall take precedence in determining the appropriateness of the land use.

**FIGURE II-2
PERMITTED AND CONDITIONAL USES
(Page 2 of 6)**

<u>LAND USE</u>	<u>HD*</u>	<u>PV</u>	<u>CCU</u>	<u>GT</u>	<u>M</u>	<u>SG*</u>	<u>CN</u>
GENERAL RETAIL (continued)							
Carpet and floor covering and installations	P6			P		P3	P6
Large appliance sales	P7	P	P	P	P1	P3	P6
Home Furnishings with retail display (not including "mattress only", carpet, and discount furniture stores)	P	P	P	P	P1	P3	P6
Hardware, paint, glass, tools, home improvement	P	P	P	P	P1	P1, P3	P6
Medical equipment sales/rentals and supplies	P7		P	P	P1	P3	P6
Outdoor vending machines		P					
EATING AND DRINKING ESTABLISHMENTS							
All types of eating establishments providing meal service from an on-site operating commercial-grade kitchen, and / or dessert service from an on-site operating commercial-grade freezer / refrigerator facility with, or without, incidental sale of alcohol (including micro-breweries and outdoor dining, but with no drive-through), with no live amplified entertainment or dancing	P	P	P	P	P	P3, P11	
Eating establishments (as defined above) with indoor amplified entertainment and/or dancing	P	P	P	P	P	C3	
Wine- and beer-tasting establishments (only with retail sales involving related merchandise that includes a significant portion of the sales area)	P	P	P	P	P	P3	
Drinking establishments, bars and nightclubs serving alcohol with or without live entertainment and / or dance	C	C	C	C	C	C3	

NOTES:

P = Permitted C = Conditional Use Permit required

- 1 Under 3,000 square feet.
 - 2 Within Grand Avenue's "retail-core area" use is not permitted on ground floor facing Grand Avenue unless located behind a solid wall, and such wall shall be located at least 25% of the building depth back from the front, with a minimum of 25 feet of front retail depth, whichever is more. Primary entrance to this use must be from the alley. No signage facing Grand Avenue is permitted.
 - 3 Only permitted on Escondido Boulevard.
 - 4 Only permitted within a multi-tenant building, and shall not occupy more than 30% of the gross floor area.
 - 5 Only in conjunction with an approved residential project.
 - 6 Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kalmia and Ivy Streets.
 - 7 Not allowed along Grand Avenue on ground floor within the "retail core area."
 - 8 Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
 - 9 No residential uses permitted between Woodward Avenue, Washington Avenue, Escondido Boulevard and Broadway.
 - 10 Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
 - 11 Permitted on Local Historic Register properties.
- * Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.

DOWNTOWN DISTRICTS:

- HD Historic Downtown
- PV Park View
- CCU Centre City Urban
- GT Gateway Transit
- M Mercado
- SG Southern Gateway
- CN Creekside Neighborhood

NOTE: Should a conflict arise between this matrix and the land-use district text, the land use district text discussion shall take precedence in determining the appropriateness of the land use.

**FIGURE II-2
PERMITTED AND CONDITIONAL USES
(Page 3 of 6)**

<u>LAND USE</u>	<u>HD*</u>	<u>PV</u>	<u>CCU</u>	<u>GT</u>	<u>M</u>	<u>SG*</u>	<u>CN</u>
<u>FOOD AND LIQUOR SALES (excluding convenience and package stores)</u>							
General grocery stores less than 7,000 SF and specialty foods, including imported and/or unique food products, produce, candy, baked goods, meat, etc., specialty liquor sales involving off-sale unique brands of beer, wine, and distilled spirits	P	P	P	P	P	P3	P6
General grocery stores exceeding 7,000 SF of sales area with, or without, alcohol sales	P7	P	P		P	P3	P6
Convenience markets, excluding package stores		C	C	C			
<u>GENERAL OFFICE AND FINANCIAL SERVICES</u>							
Administrative, business and professional offices, employment agencies, secretarial services, realtors/real estate offices and counseling services, travel and ticket agencies	P2	P	P	P	P	P	P6
Short-term political campaign offices with a maximum duration of six months	P	P	P	P	P	P	P6
Financial institutions, banks, savings and loans (excluding check cashing and/or payday loans as a primary use), visitor and information center (including Downtown Business Association), governmental services, police and fire stations, etc. that provide direct contact with the public	P	P	P	P	P	P	P6
Off-site sales and call centers	P10					P	P6
<u>HEALTH AND PERSONAL SERVICES</u>							
Medical/dental/optical/offices, clinics and laboratories, licensed alternative health-care establishments, day spas, excluding acupressure and massage establishments as primary uses.	P2	P	P	P	P	P	P6
Barber, beauty salons including cosmetology involving ear piercing, permanent eye and lip lining, excluding other body piercing, body art, and inking parlors	P	P	P	P	P	P3	P6
<u>Massage Establishments (permitted in centers pursuant to Article 38)</u>			P				

NOTES:

P = Permitted C = Conditional Use Permit required

- 1 Under 3,000 square feet.
- 2 Within Grand Avenue's "retail-core area" use is not permitted on ground floor facing Grand Avenue unless located behind a solid wall, and such wall shall be located at least 25% of the building depth back from the front, with a minimum of 25 feet of front retail depth, whichever is more. Primary entrance to this use must be from the alley. No signage facing Grand Avenue is permitted.
- 3 Only permitted on Escondido Boulevard.
- 4 Only permitted within a multi-tenant building, and shall not occupy more than 30% of the gross floor area.
- 5 Only in conjunction with an approved residential project.
- 6 Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kalmia and Ivy Streets.
- 7 Not allowed along Grand Avenue on ground floor within the "retail core area."
- 8 Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
- 9 No residential uses permitted between Woodward Avenue, Washington Avenue, Escondido Boulevard and Broadway.
- 10 Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
- 11 Permitted on Local Historic Register properties.
- * Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.

DOWNTOWN DISTRICTS:

- HD Historic Downtown
- PV Park View
- CCU Centre City Urban
- GT Gateway Transit
- M Mercado
- SG Southern Gateway
- CN Creekside Neighborhood

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**FIGURE II-2
PERMITTED AND CONDITIONAL USES
(Page 4 of 6)**

<u>LAND USE</u>	<u>HD*</u>	<u>PV</u>	<u>CCU</u>	<u>GT</u>	<u>M</u>	<u>SG*</u>	<u>CN</u>
<u>SPECIALTY SERVICES (includes similar ancillary uses NEC)</u>							
Animal services (indoor only) to include pet training, boarding, pet spas, pet day care and veterinary clinics, excluding kennels	P7		P	P	P	P3	P6
Photographic developing and photocopy services, watch and clock repair, locksmiths	P	P	P	P	P	P	P6
Music recording/practice studios	P2	P4	P	P	P	P4	P1, 6
Custom-furniture upholstery and repair	P7					P3	P6
Picture framing shops	P	P4	P	P	P	P3	P6
Postal services including parcel delivery (public/private)	P2	P	P	P	P	P	P
Cleaning and laundering services without on-site cleaning	P7	P1	P1	P1		P1, 4	P1, 5, 6
Cleaning establishments and laundries, self-service or coin operated	P10	P				C	P1, 5, 6
Mortuaries	C10	C				C	C6
Tailors and dressmakers and alterations	P2	P	P	P	P	P	P5, 6
<u>ENTERTAINMENT, RECREATION AND CULTURAL</u>							
Dance facilities, pinball and electronic game arcades	C		C		C		
Athletic clubs, health studios, yoga, jazzercise, aerobics, zumba and similar programs	P7	P	P	P	P	P3	P6

NOTES:

P = Permitted C = Conditional Use Permit required

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- * Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.

DOWNTOWN DISTRICTS:

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**FIGURE II-2
PERMITTED AND CONDITIONAL USES**

(Page 5 of 6)

<u>LAND USE</u>	HD*	PV	CCU	GT	M	SG*	CN
<u>ENTERTAINMENT AND RECREATION (continued)</u>							
Galleries and studios pertaining to artists, craft workers and photographers (including incidental developing and printing), libraries, museums, etc., including incidental sale of merchandise pertaining to the primary use	P	P	P	P	P	P	P6
Dance studios and schools	P	P	P	P	P	P3	P6
Martial arts schools and training facilities	P10		P	P	P	P3	P6
Entertainment establishments (including internet cafes) with incidental sale of food or alcohol (excluding incidental entertainment in restaurants)	C	C	C	C	C	C3	C6
Parks - general recreation	P	P	P	P	P	P	P
Roller-skating and bowling alleys and similar indoor arena sports			P	P	C		
Swimming pools and schools		P					P6
Theater, live and motion picture	P	P	P	P			
<u>SOCIAL, PROFESSIONAL, RELIGIOUS ORGANIZATIONS</u>							
Churches, synagogues, temples, missions, religious reading rooms, and other religious activities (not allowed within Grand Avenue "historic retail core area")	C7	C	C	C	C	C	C
Social and professional organizations that conduct group and/or membership meetings on the premises, including political, veterans, civic, labor, charitable and similar organizations	C2	C	C	C	C	C	C
Youth Organizations		C	C	C	C	C	C

16

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**FIGURE II-2
PERMITTED AND CONDITIONAL USES
(Page 6 of 6)**

<u>LAND USE</u>	<u>HD*</u>	<u>PV</u>	<u>CCU</u>	<u>GT</u>	<u>M</u>	<u>SG*</u>	<u>CN</u>
<u>EDUCATION</u>							
Educational facilities for adults	C	P	C	P	P	P	C6
Daycare facilities	C10	C	C	C	C	C	C6
Schools-(primary education)		C		C	C	C	C
Schools-(secondary education)	C6	C		C	C	C	C
<u>COMMUNICATIONS (wireless facilities subject to Article 34)</u>							
Broadcasting (radio and/or television stations)	C7	C	C	C	P	C	C6
Newspaper printing and publishing	C7		C1	C1	C1	C1	C6
<u>TRANSPORTATION AND MISCELLANEOUS SERVICES</u>							
Car-rental services, excluding maintenance and repair of vehicles			C	C			
Parking lots (municipal)	P	P	P	P	P	P	P
Parking lots (private full fee)	C	C	C	C	C	C	C
Taxicab, trolley, shuttle and pedicab stands	P	P	P	P	P	P	P
Transit stations and car-rental services, including maintenance and repair				P			
Seasonal sales not exceeding 30 days, (including pumpkin, Christmas tree and wreath sales between October 1 and December 31, both dates inclusive, to the extent permitted by other statutory and ordinance provisions). Structures and materials used for seasonal sales shall be removed from the premises immediately after December 31 and the property shall be restored to a neat condition	P	P	P	P	P	P	P
Miscellaneous Government Operations that do not provide direct contact with the public	C	C	C	C	C	C	C

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Municipal Code

ARTICLE 1. GENERAL

Sec. 16A-1. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings ascribed to them in this section:

(a) *California Massage Therapy Council (CAMTC)* shall mean the state organized non-profit organization created to regulate the massage industry set forth in Chapter 10.5 of Division 2 of the Business and Professions Code of the state (commencing with section 4600).

(b) *CAMTC certificate* shall mean a current and valid certificate issued by the California Massage Therapy Council to a massage technician.

(c) *City* shall mean the City of Escondido.

(d) *Hearing officer* shall mean any person appointed by the city manager to preside over the administrative hearings provided by this code.

(e) *Massage* shall mean any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the body with the hands or the other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances or with or without such supplementary aids as rubbing alcohol, liniments, antiseptic, oils, powder, creams, lotions, ointments, or other preparations commonly used in this practice. It does not include contact with specified anatomical areas, as defined herein, which is prohibited by this chapter and by Chapter 16E of the Escondido Municipal Code.

(f) *Massage establishment* shall mean a business or organization where an individual, firm, association, partnership, corporation, or other combination of individuals provide, offer, sell, deliver, or dispense massage as a distinct service for compensation.

(g) *Massage establishment permit* shall mean a regulatory license issued by the chief of police upon submission of satisfactory evidence as required that a massage business employs or uses only certified massage therapists or practitioners possessing valid and current state certifications and

has satisfied all other requirements pursuant to the provisions of this chapter.

(h) *Massage technician* shall mean any person who gives or administers to another person, for any form of consideration whatsoever, a massage as defined in this chapter. The terms "massage therapist," "massage practitioner," or any other terms used within the massage industry are included within this definition for the purposes of this chapter.

(i) *Operator* shall mean any person who supervises, manages, directs, organizes, controls, or in any other way is responsible for or in charge of the daily operation, conduct, or activities of a massage establishment.

(j) *Owner* shall mean any of the following individuals:

(1) The sole practitioner of a sole proprietorship operating a massage establishment.

(2) Any general partner of a general or limited partnership that owns a massage establishment.

(3) Any person who has ten (10) percent or greater ownership interest in a corporation that owns a massage establishment.

(4) Any person who is a member of a limited liability company that owns a massage establishment.

(5) All owners of any other type of business entity that owns a massage establishment.

(6) Any person identified as an owner on the massage establishment permit.

(k) *Person* shall mean any individual, firm, association, business, trust, organization, corporation, partnership, company, or any other entity which is recognized by law as the subject of rights or duties.

(l) *Specified anatomical areas* shall mean any of the following areas of the human body: pubic region, human genitals, perineum, anal region, and the areas of the female breasts that include the areola and the nipple. (Ord. No. 2015-01R, § 4, 1-14-15)

Sec. 16A-2. Exemptions.

This chapter does not apply to the following:

(a) State-licensed professionals while engaged in the performance of the duties of their respective professions and while limited to the scope of their California state licenses including acupuncturists, aestheticians, barbers, chiropractors, cosmetologists, exercise physiologists, manicurists, nurses, naturopathic doctors, occupational therapists, osteopaths, physical therapists, and physicians.

(b) Trainers of any semiprofessional or professional athlete or athletic team, or athletic trainers hired by a local, state or federal government agency.

(c) Any educational institution regulated by the State of California, including any portion of the institution providing massage services, such as student clinics and work study programs, regulated under such state license. (Ord. No. 2015-01R, § 4, 1-14-15)

Sec. 16A-3—16A-5. Reserved.

**ARTICLE 2. MASSAGE CERTIFICATION
AND OPERATION**

Sec. 16A-6. Massage certification required.

It is unlawful for any person to engage in, conduct or carry on, in or upon any premises within the city the business of providing massage, for any compensation without being in possession of a valid CAMTC certificate. (Ord. No. 2015-01R, § 4, 1-14-15)

Sec. 16A-7. Owner and operator requirements.

(a) It is unlawful for any person to own, manage, or operate in or upon any premises within the city a massage establishment in the absence of a massage establishment permit as provided issued pursuant to this chapter.

(b) It is unlawful for the owner or operator of any massage establishment to allow any person to perform massage at the massage establishment while committing any violation of this chapter.

(c) It is unlawful for the owner or operator of any massage establishment to offer or provide massage services unless the owner or a designated on-site operator is present at the massage establishment.

(d) It is unlawful for a person to own or operate a massage establishment that does not meet one of the following conditions:

(1) The massage establishment is a sole proprietorship and the sole proprietor possesses a valid CAMTC certificate; or

(2) The massage establishment only employs or uses massage technicians who possess a valid CAMTC certificate.

(e) It is unlawful for an owner or operator to fail to properly supervise any employee or independent contractor working in their massage establishment. Owners and operators are responsible for the conduct of their massage technicians at the massage establishment. A violation of any regulation by a massage technician contained in this chapter shall be prima facie evidence of the failure to supervise.

(f) It is unlawful for an owner or operator to operate a massage establishment without posting a list of services and the name of the on-site operator on the wall closest to the main entrance in the massage establishment.

(g) It is unlawful for an owner or operator to operate a massage establishment unless the CAMTC certificate for each massage technician is posted in public view or maintained in a clearly labeled and identifiable binder that is kept in the immediate vicinity of the cash register.

(h) It is unlawful for an owner or operator to allow or permit a massage technician to provide any services not specifically provided on the posted list of services as required in subsection (f) or for an owner or operator to receive any compensation for additional services not specifically included on the posted list of services.

(i) It is unlawful for an owner or operator to allow a massage technician to lock any door or doors leading to a room used to provide massage. This provision shall not apply when there is no

staff available to ensure the security for clients and staff who are behind closed doors. A patron may lock any door when alone in any room at any time.

(j) It is unlawful for an owner or operator to fail to maintain a record of services provided for each treatment. The record of treatment shall include the name and address of the patron, the name of the massage technician, the name of the operator, the type of service provided, and the time the service began and ended.

(k) It is unlawful for the owner or operator to provide any massage between the hours of 10:00 p.m. and 7:00 a.m. or to remain open and provide any other services between the same hours.

(l) It is unlawful for an owner or operator to fail to provide to all patrons clean and sanitary towels, and opaque coverings capable of covering the patron's specified anatomical areas. Such coverings shall be used for one customer and shall not be reused without first being cleaned.

(m) It is unlawful for an owner or operator to fail to provide or use disinfecting agents and sterilizing equipment sufficient to assure cleanliness.

(n) It is unlawful for an owner or operator to fail to provide or use disposable or washable protective coverings on massage tables and all massage tables shall be covered with durable, washable plastic, or other waterproof material.

(o) It is unlawful for an owner or operator to fail to keep or maintain on file and ready for inspection a statement designating the individual operator(s) responsible for the day-to-day operations when the massage establishment owner is not on the premises.

(p) It is unlawful for an owner or operator to not have a designated owner or operator on the premises at all times the massage establishment is open.

(q) It is unlawful for an owner or operator to engage in, conduct or carry on business of a massage establishment unless they have a policy of insurance issued by an insurance company authorized to do business in the State of California evidencing that the person is insured under a liability insurance policy providing minimum coverage of

one million dollars (\$1,000,000.00) for injury or death to any person arising out of the operation of any massage establishment and the administration of a massage. Evidence of such a policy should be available at inspection upon request.

(r) It is unlawful for an owner or operator to operate a massage establishment if the main entrance to a massage establishment is locked during posted business hours. An owner or operator shall ensure at least one (1) employee or independent contractor directly observes the entrance, without use of camera surveillance equipment, to ensure access to the main entrance and to ensure the security of all patrons.

(s) It is unlawful for an owner or operator to operate a massage establishment if any external door is locked, unless the business is owned by one (1) individual with one or no employees or independent contractors.

(t) It is unlawful for an owner or operator to operate a massage establishment unless every employee or independent contractor of a massage establishment wears a uniform consistent with the service provided. The uniform shall be made of non-transparent material and may not expose any specified anatomical area. Swimwear, lingerie, and undergarments may not be used as a uniform or displayed as part of a uniform.

(u) It is unlawful for an owner or operator to operate a massage establishment which is used for residential or sleeping purposes.

(v) It is unlawful for an owner or operator to fail to notify the chief of police in writing of any changes in massage technicians, including proof of CAMTC certificate, or of a change in ownership interest or designated operator within seven (7) calendar days of such change.

(w) It is unlawful for an owner or operator to operate a massage establishment in which any unprofessional conduct occurs as defined by Business and Professions Code section 4609. (Ord. No. 2015-01R, § 4, 1-14-15)

Sec. 16A-8. Inspection by officials.

The investigating officials of the city shall have the right as otherwise provided for by law to enter the premises of a massage establishment from time to time during regular business hours for the purpose of making a reasonable inspection to enforce compliance with this chapter. (Ord. No. 2015-01R, § 4, 1-14-15)

Sec. 16A-9. Massage technician requirements.

(a) It is unlawful for any person to give, provide, or administer to another person for any form of consideration a massage as defined in this chapter at a massage establishment or any location removed from a massage establishment within the city without a valid CAMTC certificate.

(b) It is unlawful for a massage technician to practice massage for any form of consideration within the city without providing their CAMTC certificate to the department of community development as part of the business licensing process. The registration application shall include the: (1) massage technician's name, residence address and telephone number; (2) employer name, work addresses and telephone number; and (3) a copy of the massage technician's CAMTC certificate.

(c) It is unlawful for any person to give, provide, or administer to another person for any form of compensation whatsoever a massage as defined in this chapter at a massage establishment or any location from a massage establishment within the city in the absence of a valid business license pursuant to Chapter 16 of the Escondido Municipal Code. A separate business license is required for each location if a massage technician works at multiple massage establishments.

(d) It is unlawful for a massage technician to provide any service not specifically listed on the massage establishment's posted list of services.

(e) It is unlawful for a massage technician to remove any article of the massage establishment uniform or other article of clothing while providing any massage service.

(f) It is unlawful for a massage technician to provide massage when any specified anatomical areas of either patron or massage technician are exposed.

(g) It is unlawful for a massage technician to touch the specified anatomical area of a patron.

(h) It is unlawful for a massage technician to lock the door to the room where massage is provided or to provide massage unless no staff is available to ensure security for clients and massage staff.

(i) It is unlawful for a massage technician (other than a sole practitioner of a sole proprietorship) to accept direct payment or gratuity from any patron.

(j) It is unlawful for a massage technician to engage in any unprofessional conduct as defined by Business and Professions Code section 4609. (Ord. No. 2015-01R, § 4, 1-14-15)

Sec. 16A-10—16A-15. Reserved.

ARTICLE 3. ENFORCEMENT

Sec. 16A-16. Violations.

Violation of any provisions of this chapter shall be treated as a strict liability offense, regardless of intent. Any person violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in an amount not to exceed one thousand dollars (\$1,000.00), or imprisonment in the County Jail not to exceed six (6) months, or both. Any violation may also be subject to civil penalties and any other legal remedy provided in this code or state law. Each violation described in this chapter may be charged as a separate count for each day the violation occurs. (Ord. No. 2015-01R, § 4, 1-14-15)

Sec. 16A-17. Unlawful operation declared a nuisance.

In addition to the legal remedies provided for in this code, the violation of any provision of this chapter shall be and the same is hereby declared to be unlawful and a public nuisance. The city attor-

ney may, in addition to, or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal or enjoinder thereof, in the manner provided by law. The city attorney shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as shall abate or remove such massage establishment and restrain and enjoin any person from operating, conducting or maintaining a massage establishment contrary to the provisions of this chapter. (Ord. No. 2015-01R, § 4, 1-14-15)

Sec. 16A-18. Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The council hereby declares that it would have adopted the division and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid. (Ord. No. 2015-01R, § 4, 1-14-15)

Sec. 16A-19—16A-24. Reserved.

ARTICLE 4. MASSAGE ESTABLISHMENTS

Sec. 16A-25. Massage establishment permit.

No person may own or operate a massage establishment without an annual permit issued by the chief of police. The chief of police, or designee, shall have the power and authority to promulgate rules, regulations and requirements that are consistent with the provisions of this chapter and applicable state law to investigate, issue, suspend or revoke massage establishment permits. The chief of police shall collect a non-refundable fee, as established by city council resolution, to recoup all investigative costs. A massage establishment permit is not transferable. A business providing massage services by certified massage technicians as an incidental use to their primary business, as authorized by the Escondido Zoning Code, are exempt from

the requirements of this article. (Ord. No. 2015-01R, § 4, 1-14-15)

Sec. 16A-26. Massage establishment registration certificate expiration and renewal.

A massage establishment registration certificate shall be valid for one (1) year, coinciding with the city business license effective and expiration dates. (Ord. No. 2015-01R, § 4, 1-14-15)

Sec. 16A-27. Permit application.

(a) An application for a massage establishment permit shall be filed by an owner on a form provided by the city submitted under penalty of perjury and shall include the following information:

(1) The full, true name under which the business will be conducted and proposed location.

(2) A complete description of all services to be provided at the proposed massage establishment.

(3) The full, true name, residential address, telephone number and date of birth of the massage establishment owner(s). Each corporate officer or partner of a massage establishment shall provide their individual information as required on the application.

(4) A valid and current driver's license and/or identification card issued by a state or federal government agency or other photographic identification bearing a bona fide seal by a foreign government.

(5) If the owner is a domestic stock, domestic nonprofit and qualified foreign corporations, limited liability company, general partnership and limited partnership information of record with the California Secretary of State, then the owner shall include copies of the following:

(A) A Business Entity Status Report, issued by the California Secretary of State.

(B) Articles of incorporation, charter, articles of association, statement of partnership authority, certificate of limited partnership or similar foundational document.

(C) Residential and business addresses of each person with more than a five (5) percent ownership interest in the massage establishment business entity.

(6) Two (2) passport size photographs of the owner or the designated officer or partner authorized to apply for the massage establishment permit.

(7) Tax identification number.

(8) The name, address and telephone number of the real property owner and a copy of lease or rental agreement, if applicable.

(9) The original valid and current state certificate issued by CAMTC for each massage technician who will work in the massage establishment.

(10) The name and address of any massage business or other similar business providing massage services owned or operated by any person whose name is required to be given pursuant to this section for the five (5) years immediately preceding this filing of the application.

(11) A complete statement listing and explaining any and all aliases and fictitious names used by the owner(s) within the last five (5) years.

(12) A signed statement authorizing the city, its officers, agents and employees, to conduct a background check of the owner(s), to seek information and conduct an investigation into the trust of the statements set forth in the application and to ensure continual compliance with all applicable provisions of law.

(13) Completed fingerprinting and background check for the owner(s) applying for an establishment permit unless otherwise certified by CAMTC.

(14) Proof of liability insurance.

(15) Any other information as may be reasonably required by the chief of police to identify the business owner, applicant and business entity, and to ensure compliance with all applicable laws and regulations.

(b) If the owner is a legal entity other than a natural person, the legal entity shall authorize, in writing, at least one of its officers or partners to act as its behalf. The owner(s) or designated officer or partner shall complete and sign all application forms required of an individual applicant under this

chapter. The legal entity's representative must, at all times, meet all of the requirements set by this chapter or the massage establishment permit shall be suspended or revoked.

(c) The owner(s) shall acknowledge responsibility for the conduct of all employees or independent contractors working on the premises of the business and acknowledging that failure to comply with the California Business and Professions Code section 4600 et seq., with any local, state or federal law, or with the provisions of this chapter may result in the suspension or revocation of the massage establishment permit.

(d) Upon receipt of the completed application, the chief of police, or designee, may refer the application to other city department that may inspect the premises proposed to be used as a massage business and shall make a written recommendation to the police chief or designee concerning compliance with the respective requirements. The police chief or designee shall have up to thirty (30) days after the submission of all required information to complete an investigation. (Ord. No. 2015-01R, § 4, 1-14-15)

Sec. 16A-28. Approval or denial of massage establishment permit.

A massage establishment regulatory license shall be issued by the chief of police, or designee, to any massage establishment that demonstrates all of the following:

(a) The operation, as proposed by the applicant, if permitted, would comply with all applicable laws, including, but not limited to, the city's building, zoning, business license, and health regulations and all requirements listed in this chapter.

(b) The massage establishment employs or uses only massage practitioners with CAMTC state certificates whose certifications are valid and current and that owners of the state certificates are the same persons to whom CAMTC issued valid and current identification cards.

(c) The applicant has provided all information, assurances, or documentation required by this chapter, has not failed to reveal any fact material to

qualification, and has not supplied information that is untrue or misleading as to a material fact pertaining to the qualification criteria.

(d) The background check for any applicant/owner authorized by the chapter shows that such person has not been required to register under the provisions of section 290 of the California Penal Code; there exists no probable cause to believe a violation of the crimes indicated in this article or California Penal Code section 415; has not had an individual or business permit or license with any agency, board, city, county, territory, or state denied, revoked, restricted, or suspended within the last five (5) years; and has not been subject to an injunction for nuisance under Penal Code sections 11225 through 11235 within the last five (5) years. (Ord. No. 2015-01R, § 4, 1-14-15)

Sec. 16A-29. Massage establishment permit suspension or revocation.

(a) An establishment permit may be suspended or revoked upon any of the following grounds:

(1) There is cause to believe an owner or operator has committed a violation that could have caused denial of the massage establishment regulatory license.

(2) There is cause to believe an owner has made a material misrepresentation on the application for a massage establishment regulatory license or renewal.

(3) There is cause to believe the owner or operator or massage technician has engaged in conduct in a manner which violates any of the provisions of this chapter, any conditions of the massage establishment permit, or any of the laws which would have been grounds for denial of the massage establishment regulatory license.

(4) Violations of this chapter or of California Business and Professions Code section 4600 et seq., have occurred on the business premises.

(5) The owner or operator has failed to comply with one (1) or more of the owner and operation requirements under this chapter.

(6) The registered license holder has engaged in fraud, misrepresentation, or false statements in obtaining an establishment registration certificate.

(b) Any repeat violations or any arrests that result in criminal charges shall provide a prima facie basis for revocation. (Ord. No. 2015-01R, § 4, 1-14-15)

Sec. 16A-30. Appeals.

(a) Notice of permit denial, suspension or revocation shall contain a statement of the violation(s) which constitute the basis for the suspension or revocation and information about the right to appeal. Notice of the suspension or revocation shall be given by first class mail to the owner and real property owner at the addresses shown on the massage establishment permit. Service shall be deemed complete when the notice is mailed by first class mail. The owner shall have ten (10) calendar days from the date the notice is served to appeal to the city manager in writing and upon payment of an administrative decision appeal fee. Upon issuance of a notice of suspension or revocation, the massage establishment permit shall be surrendered and no massage activity may occur while any appeal proceeds.

(b) Upon receipt of an appeal, the city manager shall appoint a hearing officer. A hearing shall be scheduled upon not less than ten (10) calendar days and not more than thirty (30) days, unless extended by mutual agreement. Notice of the hearing shall be given by first class mail to the owner and real property owner at the addresses shown on the massage establishment permit. Service shall be deemed complete when the notice is mailed.

(c) The hearing officer's jurisdiction is limited to determining whether evidence exists to provide grounds for the massage establishment permit denial, suspension or revocation.

(d) The city shall provide proof of any violations by a preponderance of the evidence. Formal rules of evidence shall not apply to the hearing.

(e) The hearing officer shall:

(1) Receive evidence regarding the proposed suspension, revocation or permit denial.

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- (2) Maintain a record of all evidence introduced.
- (3) Record the hearing.
- (4) Consider the nature, volume, severity, and frequency of any violations.
- (5) Decide whether grounds exist of the suspension or revocation or denial.
- (6) Issue a written decision within seven (7) days of the hearing that includes the factual and legal basis of the decision and a notice of the appeal rights contained in this chapter.
- (f) The hearing officer's decision shall be final upon mailing by first class mail to the owner and real property owner at the addresses listed on the massage establishment permit application.
- (g) The hearing officer's decision is subject to review pursuant to California Code of Civil Procedure section 1094.6. (Ord. No. 2015-01R, § 4, 1-14-15)

Sec. 16A-31. Reapplication after denial of massage establishment permit.

If a massage establishment permit is revoked, or not renewed as a result of violations, no massage establishment permit may be issued at that location for a period of five (5) years from the date of revocation or non-renewal. (Ord. No. 2015-01R, § 4, 1-14-15)