

## CHAPTER 8.28

### MASSAGES / MASSAGE BUSINESSES

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#### **8.28.010 PURPOSE AND INTENT**

A. In enacting this Chapter, the City Council recognizes that commercial massage therapy is a professional pursuit which can offer the public valuable health and therapeutic services. The City Council further recognizes that, unless properly regulated, the practice of massage therapy and the operation of massage businesses may be associated with unlawful activity and may pose a threat to the quality of life in the local community. Accordingly, it is

the purpose and intent of this Chapter to protect the public health, safety and welfare by providing for the orderly regulation of businesses providing massage therapy services, discouraging prostitution and related illegal activities carried on under the guise of massage therapy, and establishing certain sanitation, health and operational standards for massage businesses.

B. Furthermore, it is the purpose and intent of this Chapter to address the negative impacts identified in the City Council's findings to reduce or prevent neighborhood blight and to protect and preserve the quality of the City, and to enhance enforcement of laws and regulations relating to the conduct of operators and employees of massage businesses.

C. It is the Council's further purpose and intent to rely upon the uniform statewide regulations applicable to massage practitioners and establishments that were enacted by the State Legislature as Business and Professions Code sections 4600 *et seq.*, as currently drafted or as may be amended, to restrict the commercial practice of massage in the City to those persons duly certified to practice by the California Massage Therapy Council, and to provide for the registration and regulation of massage businesses for health and safety purposes to the extent allowed by law. (Ord. 842, 2016; Ord. 846, 2016)

#### **8.28.020 DEFINITIONS**

For the purposes of this Chapter, unless the particular provision or the context otherwise requires, the definitions in this Section shall govern the construction, meaning and application of words and phrases used in this Chapter.

A. "California Massage Therapy Council" or "CAMTC" means the organization formed pursuant to Business and Professions Code section 4602, as currently drafted or as may be amended.

B. "CAMTC Certificate" means a valid certificate issued by the California Massage Therapy Council to a Certified Massage Therapist or as a Certified Massage Practitioner pursuant to California Business and Professions

Code sections 4600 *et seq.*, as currently drafted or as may be amended.

C. "Certified Massage Therapist" means any individual who possesses a valid CAMTC Certificate.

D. "Chief of Police" means the Chief of Police of the City of Ripon and his or her authorized representatives or designees.

E. "City" shall mean the City of Ripon.

F. "City Administrator" means the City Administrator of the City of Ripon, and his or her authorized representatives or designees.

G. "Client" means the customer or patron who pays any form of Compensation for and/or receives a Massage.

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

I. "Employee" means any person employed by a Massage Business who may render any service to the business and who receives any form of Compensation from the business or any Client of the business. For the purposes of this Chapter, the term "Employee" shall include independent contractors, agents and volunteers of the Massage Business.

J. "Massage" or "Massage Therapy" means any method of treating the body for remedial, health or hygienic purposes for any form of Compensation by means of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external parts of the body with hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances, and with or without supplementary aids such as rubbing alcohol, liniments, antiseptic, oils, powder, creams, lotions, ointments or other similar preparations commonly used in Massage, or by steam, bath, shower or wrap, including, but not limited to, Turkish, Russian, Swedish, Japanese, vapor, shower, electric tub, sponge, mineral, mud, fermentation or any other type of bath.

K. "Massage Business" means any Person or business that offers or performs Massage in exchange for Compensation, whether at a fixed place of business or pursuant to Outcall Massage. For purposes of this Chapter, the term "Massage Business" includes all businesses

where Massage is offered or performed, even if other services are also offered at the business, such as salons, day spas, health clubs, etc. For purposes of this Chapter, the term "Massage Business" shall not include a Person who performs Massage to limited areas of the neck, face, scalp, hands or feet of Clients when that Massage is accessory to and within the scope of a barber's, cosmetologist's and/or esthetician's valid state license.

L. "Massage Business Permit" means the permit required by Section 8.28.060 for every Owner or Operator who does not qualify as a Certified Massage Therapist.

M. "Operator" means a Person who supervises, manages, directs, organizes, controls, operates or is in any other way is responsible for or in charge of the activities within a Massage Business, regardless of whether the Person qualifies as an Owner or Certified Massage Therapist. Evidence that a Person is an Operator includes, but is not limited to, indications that the Person has power to direct, hire and/or dismiss Employees, control hours of operation, create policies or rules, and/or purchase supplies for the Massage Business.

N. "Outcall Massage" means offering or providing Massage in exchange for any form of Compensation in a location other than at a fixed place of business.

O. "Owner" means any of the following, regardless of whether the Person qualifies as an Operator or Certified Massage Therapist:

1. The sole proprietor of a Massage Business; or

2. Any person who is a general partner of a general or limited partnership that owns a Massage Business; or

3. Any person who has a five percent (5%) or greater ownership interest in a corporation that owns a Massage Business; or

4. Any person who is a member of a limited liability company that owns a Massage Business; or

5. Any person who has a five percent (5%) or greater ownership interest in any other type of business association that owns a Massage Business.

P. "Person" means any individual, firm, association, partnership, corporation, joint

venture, limited liability company or other combination of individuals.

Q. "Primary Focus of Business" means that the main purpose of the Business is to offer or perform Massage, that Massage is not merely an incidental part of the overall business operation, and/or that income from Massage accounts for a minimum of sixty percent (60%) of the gross income business. (Ord. 862 § 2, 2017)

R. "Reception Area" means the area immediately inside the front door of a Massage Business, dedicated to the reception and waiting of Clients and visitors of the Massage Business, which is not a Massage room and is not otherwise used to perform Massage Services.

(Ord. 842, 2016; Ord. 846, 2016)

### **8.28.030 EXEMPTIONS**

The provisions of this Chapter shall not apply to the following classes of individuals or businesses while engaged in the performance of their duties:

A. Physicians, surgeons, chiropractors, osteopaths, nurses or any physical therapists who are duly licensed to practice their respective professions in the State of California and persons working directly under the supervision of or at the direction of such licensed persons, working at the same location as the licensed person, and administering Massage services subject to review or oversight by the licensed person.

B. Barbers and cosmetologists who are duly licensed under the laws of the State of California while engaging in practices within the scope of their licenses, except that this Chapter shall apply when such person is solely performing any method of Massaging of the neck, face and/or scalp, hands or feet of a Client.

C. Hospitals, nursing homes, mental health facilities or any other health facilities duly licensed by the State of California, and employees of these licensed institutions, while acting within the scope of their employment and within the parameters of the relevant license.

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

E. Trainers of amateur, semi-professional or professional athletes or athletic teams while engaging in their training responsibilities for and with athletes, and trainers working in conjunction with a specific athletic event.

F. Individuals administering Massage or health treatment involving Massage to persons participating in single-occurrence athletic, recreational or festival events, such as health fairs, road races, track meets, triathlons and other similar events, provided that all of the following conditions are satisfied:

1. The Massage services are made equally available to all participants in the event;
2. The event is open to participation by the general public or a significant segment of the public;
3. The Massage services are provided at the site of the event and during the event;
4. The sponsors of the event have been advised of and have approved the provision of Massage services;

The Persons providing the Massage services are not the primary sponsors of the event. (Ord. 842, 2016; Ord. 846, 2016)

### **8.28.040 CAMTC CERTIFICATION REQUIRED**

A. Except as provided in Section 8.28.040(B), it shall be unlawful for any Person to offer or perform Massage in exchange for any form of Compensation within the City unless that Person possesses a valid CAMTC certificate by January 1, 2017.

B. The Chief of Police may permit a Person to offer and perform Massage in exchange for Compensation within the City without a valid CAMTC certificate if the following conditions are met:

1. The Person has been in possession of a valid City Business License for a lawful Massage Business for a minimum of 10 years prior to adoption of this Chapter.
2. The Person has not had his/her City Business License revoked or suspended for the

10 year period preceding adoption of this Chapter.

3. The Person obtains a Massage Business Permit pursuant to Section 8.28.060 by January 1, 2017. (Ord. 842, 2016; Ord. 846, 2016)

#### **8.28.050 CITY BUSINESS LICENSE AND USE PERMIT REQUIREMENTS**

A. It shall be unlawful for Person or Massage Business to offer or perform Massage for Compensation within the City without first obtaining a valid City Business License pursuant to Ripon Municipal Code Chapter 5.04.

B. It shall be unlawful for any business to offer or perform Massage for Compensation within the City without first obtaining and thereafter complying with the terms and conditions of a Conditional Use Permit pursuant to Ripon Municipal Code Chapter 16.76 if either of the following conditions exist:

1. The Primary Focus of the business is to offer or perform Massage; or
2. Massage is offered or performed at a business that is not traditionally associated with Massage services (e.g. a business other than a hair salon, nail salon, day spa, medical facility, doctor's office, physical therapist, chiropractor, etc.). (Ord. 842, 2016; Ord. 846, 2016; Ord. 862 § 2, 2017)

#### **8.28.060 MASSAGE BUSINESS PERMIT REQUIRED FOR OWNERS AND OPERATORS WHO DO NOT QUALIFY AS CERTIFIED MASSAGE THERAPISTS**

Every Owner and Operator of a Massage Business who does not qualify as a Certified Massage Therapist shall obtain a Massage Business Permit from the Chief of Police prior to obtaining a Business License according to the following procedures:

A. Application for Permit. Every Massage Business Owner and Operator shall complete and submit an application to the Chief of Police on the form provided by the City.

B. Background Investigation for Permit. Every Massage Business Owner and Operator shall personally appear at the City Police Department to be fingerprinted and shall pay the fees established by City Council Resolution to cover the cost of fingerprinting and processing a criminal background investigation. Upon receipt of a completed application and all required fees, the Chief of Police shall conduct or cause to be conducted a background investigation of each applicant.

C. Issuance or Denial of Permit. Based on the information contained in the application and obtained from the background investigation, the Chief of Police shall determine whether to issue or deny a Massage Business Permit. The applicant will be notified of the decision in writing. If the Chief of Police denies an application for a Massage Business Permit, the applicant will be notified in writing of the reasons for the denial. The City may deny issuance of a Massage Business Permit for any of the following reasons:

1. The application is incomplete.
2. The applicant has provided false information on the application.

3. During the five (5) years immediately preceding the date the application was filed, the applicant was convicted of, or pled guilty to, any of the following offenses: violation of California Penal Code section 243.4, 261, 266 267, 288, 314 to 316 inclusive, 318, 647, any offenses requiring registration under California Penal Code section 290 or California Health and Safety Code section 11590, any felony offense involving the possession for sale, sale, transportation, furnishing or giving away of a controlled substance specified in California Health and Safety Code sections 11054 to 11058, inclusive, any offense in another state which if committed in California, would have been punishable as any of the offenses identified herein, any offense involving the use of force or violence upon the person of another, or any offense involving theft, embezzlement or moral turpitude.

4. During the five (5) years immediately preceding the date the application was filed, the applicant had a Massage license, permit, certificate or the equivalent, suspended or revoked.

D. Length of Permit. Massage Business Permits shall be valid for two (2) calendar years, effective January 1<sup>st</sup> of each year, unless terminated earlier by the Permit holder or unless the Permit is suspended or revoked by the City. For new Massage Business Permit applications fees are not prorated, however, any completed application received after November 30<sup>th</sup> of the current year will be processed for the next year. (Ord. 862 § 2, 2017)

E. Suspension and/or Revocation of a Permit. The Chief of Police may suspend or revoke a Massage Business Permit by providing written notice to the Massage Business and its Owners and Operators. The written notice of suspension or revocation shall explain the grounds for the suspension or revocation, the effective date of the suspension or revocation and provide notice of the right to request an appeal hearing before the City Administrator. A Massage Business Permit may be suspended and/or revoked for any of the following reasons:

1. Any individual offering or performing Massage at or on behalf of a Massage Business is not in possession of valid CAMTC certificate.  
2. The City determines, in its reasonable discretion, that there was a material misrepresentation, false statement or omission of material fact on the application for a Massage Business Permit or renewal thereof.

3. A violation of any provision of this Chapter or any other applicable local, state or federal law or regulation, as currently drafted or as may be amended, has occurred at the Massage Business or during an Outcall Massage.

4. Any individual offering or performing Massage at or on behalf of a Massage Business was convicted of, or pled guilty to, any of the following offenses: violation of California Penal Code section 243.4, 261, 266, 267, 288, 314 to 316 inclusive, 318, 647, any offenses requiring registration under California Penal Code section 290 or California Health and

Safety Code section 11590, any felony offense involving the possession for sale, sale, transportation, furnishing or giving away of a controlled substance specified in California Health and Safety Code sections 11054 to 11058, inclusive, any offense in another state which if committed in California, would have been punishable as any of the offenses identified herein, any offense involving the use of force or violence upon the person of another, or any offense involving theft, embezzlement or moral turpitude.

5. The City determines, in its reasonable discretion, that any activity has occurred at the Massage Business or during an Outcall Massage which poses a risk to the health, safety or general welfare of any Person or the public.

F. Right to Appeal Adverse Action. Any Person whose application for a Massage Business Permit is denied, or whose Permit has been suspended or revoked may appeal the decision to the City Administrator by filing a written notice of appeal within ten (10) days of being notified of the decision. The notice of appeal shall explain all reasons for the appeal and shall be accompanied by a filing fee in the amount of Two Hundred Fifty Dollars (\$250). The City Administrator shall schedule a hearing within thirty (30) days of receipt of the notice of appeal and shall provide written notice of the time, date and location of the hearing to the appellant. A continuance of the appeal hearing may be requested in writing, for good cause, by either the appellant or the Chief of Police. The decision of whether to grant a continuance shall be made in the discretion of the City Administrator, who shall consider whether granting the continuance poses a risk to the health, safety or general welfare of any Person or the public.

G. Appeal Hearings.

1. The following rules apply to appeal hearings:

a. Oral evidence shall only be taken under oath or affirmation. The City Administrator shall have the authority to administer oaths and to receive and rule upon the admissibility of evidence.

b. Each party shall have the right to offer testimonial, documentary and tangible evidence

bearing on the issues, to be represented by counsel of their choosing and at their sole cost, and to confront and cross-examine witnesses.

c. The City Administrator may call and examine or cross examine any witness.

d. Formal rules of evidence and discovery do not apply to the appeal hearing. However, only relevant evidence shall be admitted, irrelevant and unduly repetitious testimony shall be excluded, and rules of privilege shall apply.

e. Unless otherwise specifically prohibited by law, the burden of proof is on the appellant.

2. The decision of the City Administrator shall be made within fifteen (15) days of the appeal hearing and shall be final, with no further right to an administrative appeal or reconsideration by the City. The following, without limitation, are potential outcomes of an appeal hearing:

a. Uphold the decision.

b. Overrule the decision.

c. Reduce a revocation to a suspension.

d. Reduce the length of a suspension.

e. Stay the effective date of a suspension or revocation for a reasonable time following a hearing.

f. Impose conditions on the issuance or continued validity of the Massage Business Permit.

3. If a Massage Business Permit is revoked, the City shall not accept a new application from the Massage Business or any of its Owners or Operators for a period of one (1) year from the date of revocation.

**H. Notification of Sale of Massage Business.** A Massage Business Permit holder shall notify the Chief of Police in writing within thirty (30) days of the sale of the Massage Business for which he/she obtained the Massage Business Permit.

**I. Transfer and Sale of Permits Prohibited.** Massage Business Permits shall be non-transferable and cannot be sold. Every new Owner and Operator of a Massage Business who does not qualify as a Certified Massage Therapist must obtain a Massage Business Permit within five (5) days of becoming an Owner or Operator. (Ord. 842, 2016; Ord. 846, 2016)

## **8.28.070      OPERATING REQUIREMENTS FOR ALL MASSAGE BUSINESSES**

No Person or Massage Business shall offer, perform or permit any Massage service within the City of Ripon unless all of the following requirements are met:

A. **Required Displays.** A copy of the following shall be displayed, in English, and in an area immediately visible by all who enter the Massage Business, and for Outcall Massage, shall be provided to Clients at the location where the Outcall Massage is performed:

1. Valid CAMTC certifications for all People who offer or perform Massage at or on behalf of the Massage Business. CAMTC certifications of former Employees shall be removed as soon as those individuals are no longer employed by or offering services through or on behalf of the Massage Business.

2. Valid City Business License.

3. Valid Massage Business Permit.

4. A description of the Massage services available and the cost of each service.

B. **Massage Services and Fees.** Every Massage Business shall maintain a current, complete and legible list of all Massage services available, which shall include a description of each service and the cost of each service. No Person shall offer, perform or permit any Massage service other than those contained in the list of Massage services required by this Section. No individual shall request or charge a fee for any Massage service other than the fees contained in the list of Massage services required by this Section.

C. **Hours of Operation.** The hours in which Massage may be offered and performed shall be limited to 6:00 a.m. - 9:00 p.m. No Massage Business shall be open and no Massage shall be offered or performed between 9:00 p.m. and 6:00 a.m. A Massage that has commenced prior to 9:00 p.m. shall terminate by 9:00 p.m. All Clients shall exit the Massage Business by 9:00 p.m. and all individuals performing Outcall Massage shall exit the premises where said services were performed by 9:00 p.m. It is the obligation of the Massage Business to inform

Clients of the requirement that services must cease at 9:00 p.m.

**D. Roster of Certified Massage Therapists.**

The Massage Business shall keep a current, complete and legible written roster of all People offering or performing Massage for the Massage Business, regardless of whether the Massage is offered or performed at the Massage Business premises or as an Outcall Massage, which shall contain all of the following information:

1. Legal name of the Person
2. Nickname / aliases used by the Person
3. Residential address and telephone number for the Person
4. The Person's date of birth
5. The Person's gender
6. The Person's height and weight
7. The Person's hair and eye color
8. The Person's CAMTC certificate number and expiration date

**E. Service Records.** For each Massage service provided, the Massage Business shall keep a complete and legible written record of the following information:

1. The name and address of the Client
2. The date and timeframe that Massage service was provided
3. A description of the Massage service provided
4. The amount paid for the Massage service, including any gratuity
5. The name and CAMTC Certificate number of the Person performing the Massage service
6. The address where the Massage Service was provided
7. The name of the individual entering the information in the written record

**Record Retention.** All records required by this Section shall be retained at the location of the Massage Business for a minimum of two (2) years and shall be open to inspection and

**F. copying** during business hours by the Planning Director and Chief of Police for purposes of investigating compliance with this Chapter and all other applicable local, state and federal laws and regulations, as currently drafted or as may be amended.

**G. Required Clothing.** All Massage Business Owners, Operators and all Certified

Massage Therapists, as well as any other Employees of the Massage Business shall, at all times while present at the Massage Business or during any Outcall Massage, be fully clothed. Clothing shall be fully opaque, with non-transparent material and provide complete covering of the genitals, pubic areas, buttocks and chest. For the purposes of this Section, the term "clothing" means any article of clothing worn over other articles of clothing and does not include items such as underwear or bras.

**H. Required Coverings.** The Massage Business shall provide all Clients with clean, sanitary and opaque coverings capable of covering the Client's genitals, anal area and female breasts. Coverings shall not be used by more than one (1) Client, unless they have first been laundered and disinfected. No Massage shall be performed unless the Client's genitals, anal area and female breasts are, at all times, fully covered. No Person shall, in the course of performing any Massage, make physical contact with the genitals, anal area and female breasts of any other person regardless whether the person's skin is exposed or covered.

**I. Required Towels and Linens.** The Massage Business shall provide Clients with an adequate supply of clean and sanitary towels and linens, which shall be stored in enclosed cabinets. Non-disposable towels and linens shall not be used on more than one (1) Client, unless they have first been laundered and disinfected. Disposable towels and linens shall not be used on more than one (1) Client.

**J. Dressing Rooms, Restrooms and Washing Facilities.** The Massage Business premises and the area where any Outcall Massage is performed shall be equipped with facilities that permit Clients to undress and dress in private and shall have at least one (1) restroom that complies with the requirements of this Code, which shall be accessible to Clients as well as Employees of the Massage Business. Hot and cold running water shall be available at all times within the Massage Business premises and the area where any Outcall Massage is performed. Toilet facilities shall be provided in convenient locations within the Massage Business and shall consist of at least one (1) unisex toilet with lavatories or wash basins

provided with soap and both hot and cold running water either in the toilet room or vestibule.

**K. Cleaning Requirements.** The entire premises of the Massage Business, including but not limited to, all rooms, bathrooms, showers, steam rooms, bathtubs and pools, shall be thoroughly cleaned and disinfected as needed, and at least once each day when the premises are open, with a hospital-grade disinfectant. Bathtubs shall be thoroughly cleaned with a hospital-grade disinfectant after each use. All walls, ceilings, floors and other physical facilities of the premises shall be maintained in good repair and in a clean and sanitary condition. All equipment used in any Massage shall be maintained in a clean and sanitary condition and shall not be used on more than one (1) Client unless they have been properly sterilized using standard sterilization methods.

**L. Alcohol and Drugs Prohibited.** No Person shall enter, be, or remain in any part of a Massage Business or in the area where an Outcall Massage is performed while in possession of or under the influence of any alcoholic beverage, illegal drug or controlled substance (as defined in the Controlled Substances Act and Code of Federal Regulations). No person offering or performing Massage shall not be under the influence of any alcoholic beverage, illegal drug or controlled substance (as defined in the Controlled Substances Act and Code of Federal Regulations).

**M. Advertisements.** No Person shall verbally or in writing place, publish or distribute, or cause to be placed, published or distributed, any advertising material that could reasonably suggest that any service is available other than the Massage services lawfully offered by the Massage Business in compliance with this Chapter, which services shall be described in the list required by this Section.

**N. Doors and Windows.** During business hours, the entry door to the Massage Business shall remain unlocked and unobstructed unless otherwise permitted by law. At all times all windows fronting a public street, highway,

walkway or parking area shall remain unblocked by any object or material that obstructs, blurs or unreasonably darkens the view into the premises.

**O. Sexual Paraphernalia.** Instruments, devices or paraphernalia that are designed for use in connection with sexual activities, including, but not limited to, condoms, shall not be permitted within the Massage Business or in area where any Outcall Massage is performed.

**P. Construction.** The Massage Business premises and facilities shall be constructed in compliance with the Americans with Disabilities Act, and all other applicable local, state and federal laws and regulations, as currently drafted or as may be amended, including, but not limited to, those related to the safety of structures, adequacy of the plumbing, lighting, heating, ventilation, waterproofing of rooms in which showers, water or steam baths are used, and the health and cleanliness of the facility.

**Q. Lighting.** All areas within the Massage Business premises and the area where any Outcall Massage is performed shall have lighting consisting of a minimum of one (1) artificial light of not less than forth (40) watts.

**R. Ventilation.** All areas within the Massage Business premises and the area where any Outcall Massage is performed shall be ventilated in compliance with the requirements of this Code.

**S. Signs.** All signs associated with the Massage Business shall comply with the requirements of this Code.

**T. School of Massage.** No Massage Business shall simultaneously operate as a school of Massage or share facilities with a school of Massage.

**U. No Residence in Massage Business.** No Massage Business shall allow any Person to reside within the Massage Business or in any attached structures owned, leased or controlled by the Massage Business Owners or Operators.

**V. Prohibited Unlawful Conduct.** It shall be unlawful for any individual who offers or performs Massage at or on behalf of the Massage Business, whether within the Massage Business premises or in any area where any Outcall Massage is performed to engage in any

conduct listed in Section 4609 of the California Business and Professions Code, Section 647 of the California Penal Code, or any other local, state or federal law or regulation involving a crime of moral turpitude.

(Ord. 842, 2016; Ord. 846, 2016)

#### **8.28.080 EXCHANGE OF INFORMATION**

The City may, from time to time, request information from CAMTC pertaining to any Person who possesses a CAMTC Certificate and who is engaging, or seeking authorization to engage in the practice of Massage in the City. The requested information may include, but is not limited to, the current status of the Person's CAMTC Certificate, any history of disciplinary action taken against the Person, the home and business addresses of the CAMTC Certificate holder, and any other information that may be necessary to verify fact relevant to administering the provisions of this Chapter. (Ord. 842, 2016; Ord. 846, 2016)

#### **8.28.090 INSPECTION BY OFFICIALS**

The investigating and enforcing officials of the City, including but not limited to the Chief of Police, the Chief Building Official and the Chief of the Fire Department, shall have the right to enter any Massage Business premises and any area where Outcall Massage is performed at any time during regular business hours for the purpose of making reasonable inspections, to observe and enforce compliance with applicable laws and regulations and with the provisions of this Chapter. Such inspections may include the taking of photographs, samples or other physical evidence. The Massage Business may be charged a fee for any safety inspections. (Ord. 842, 2016; Ord. 846, 2016)

#### **8.28.100 APPLICABILITY OF OTHER LAWS AND REGULATIONS**

Nothing contained within this Chapter shall be construed to exempt any Person from complying with the provisions of any other applicable law or regulation, or to exempt a Massage Business or Certified Massage

Therapist from the provisions of any zoning, licensing, building or other law or regulation. (Ord. 842, 2016; Ord. 846, 2016)

#### **8.28.110 NOTIFICATIONS**

In addition to all other the notifications required by this Chapter, every Massage Business Owner and Operator shall report to Chief of Police any of the following within seventy-two (72) hours of occurrence, or learning of the occurrence, whichever is later:

- A. The Arrest, for an offense other than infractions or traffic violations, of any Massage Business Owner, Operator or other Person who offers or performs Massage at or on behalf of the Massage Business, whether at the Massage Business premises or pursuant to Outcall Massage, and whether as an Employee or otherwise.
- B. Revocation or suspension of the CAMTC Certification of any Person who offers or performs Massage at or on behalf of the Massage Business, whether at the Massage Business premises or pursuant to Outcall Massage.
- C. Any violation of the requirements of this Chapter or any other applicable local, state or federal law or regulation, as currently drafted or as may be amended. (Ord. 842, 2016; Ord. 846, 2016)

#### **8.28.120 RESPONSIBLE PERSONS**

The City is entitled to hold all of the following individuals responsible for violations of any provision of this Chapter and any other applicable local, state and federal laws and regulations, as currently drafted or as may be amended:

- A. Massage Business Owners
- B. Massage Business Operators
- C. Any Person offering or performing Massage within the City of Ripon
- D. Any Person who owns the real property where a Massage Business is operated

(Ord. 842, 2016; Ord. 846, 2016)

### **8.28.130 PUBLIC NUISANCE**

It shall be unlawful and a public nuisance for a Massage Business to be operated, conducted or maintained in violation of provisions of this Chapter or any other applicable local, state or federal law or regulation, as currently drafted or as may be amended. The City Attorney and/or District Attorney may, in the exercise of their discretion, in addition to or in lieu of taking any other action permitted by this Chapter, commence proceedings in the Superior Court of San Joaquin County or any other Court having jurisdiction over the matter, to abate and/or enjoin the public nuisance. All remedies provided for in this Chapter are cumulative and are not intended to limit the City's available remedies. (Ord. 842, 2016; Ord. 846, 2016)

### **8.28.140 UNLAWFUL BUSINESS PRACTICES**

Any Massage Business operated, conducted, or maintained in violation of the provisions of this Chapter shall constitute an unlawful business practice pursuant to California Business and Professions Code section 17200 *et seq.*, and the City Attorney and/or District Attorney may, in the exercise of their discretion, in addition to or in lieu of taking any other action permitted by this Chapter, institute an action in the Superior Court of San Joaquin County or any other Court having jurisdiction over the matter, seeking an injunction prohibiting the unlawful business practice and/or any other remedy available at law, including but not limited to fines, attorney's fees and costs. All remedies provided for in this Chapter are cumulative and are not intended to limit the City's available remedies. (Ord. 842, 2016; Ord. 846, 2016)

### **8.28.150 CRIMINAL PROSECUTION**

A violation of any of the provisions of this Chapter shall constitute a misdemeanor, and the City Attorney and/or District Attorney may, in the exercise of their discretion, in addition to or in lieu of taking any other action permitted by this Chapter, prosecute the violation as a misdemeanor in the Superior Court of San

Joaquin County or any other Court having jurisdiction over the matter.

Misdemeanors under this Chapter shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) per violation, or by imprisonment in the County Jail for a period of not more than six (6) months per violation, or by both fine and imprisonment. All remedies provided for in this Chapter are cumulative and are not intended to limit the City's available remedies. (Ord. 842, 2016; Ord. 846, 2016)

### **8.28.160 ADMINISTRATIVE FINES**

A violation of any of the provisions of this Chapter may result in the issuance of an administrative citation and the City may, in its discretion, in addition to or in lieu of taking any other action permitted by this Chapter, impose administrative fines of up to one thousand dollars (\$1,000.00) per violation. All remedies provided for in this Chapter are cumulative and are not intended to limit the City's available remedies.

A. Each violation of any provision of this Chapter shall constitute a separate and distinct violation for each and every day during on which any violation occurs.

B. Notice of the violation and associated fine shall be served by certified mail on the responsible Person(s). The notice shall contain an advisement of the right to file an appeal and the process for contesting the imposition of the fine with the City. The appeal process and timeline shall follow those procedures and timelines set forth in Section 8.28.060(F) and (G).

C. All fines shall be paid within thirty (30) days of the date of the notice of violation or the date of the decision on the appeal, whichever is later.

D. Any outstanding amounts owed to the City may be referred to a collection agency and/or the City may place a lien against any real or personal property owned by the responsible Person. (Ord. 842, 2016; Ord. 846, 2016)

### **8.28.170 PROSECUTORIAL DISCRETION**

Pursuant to the City Attorney's prosecutorial discretion, the City may, in its

discretion, enforce violations of this Chapter as criminal, civil and/or administrative violations utilizing all available legal, equitable and/or administrative remedies. All remedies provided for in this Chapter are cumulative and are not intended to limit the City's available remedies.

(Ord. 842, 2016; Ord. 846, 2016)