

**Chapter 5.45 Message Establishments**  
(Ord. No. 1558)

**§ 5.45.005 Definitions.**

For the purposes of this Chapter, the following words and phrases shall mean:

- A. "Chief": Seal Beach Chief of Police or his or her delegate.
- B. "Customer": all persons on the premises during operating hours who are not the applicant, the applicant's officers or employees or vendors.
- C. "Designated Managing Officer": the natural person designated by a corporation or partnership as the applicant on the application for a massage establishment permit and the co-permittee upon the issuance of a massage establishment permit.
- D. "Employee": any person who is employed by a massage establishment.
- E. "Health Officer": The Orange County Health Department officer responsible for inspecting massage establishments in Seal Beach, or his or her delegate.
- F. "Massage": any method of treating the external parts of the body for remedial, health or hygienic purposes. Massage includes, but is not limited to, massage by means of pressure, friction, stroking, kneading, rubbing, tapping, pounding; massage by means of stimulating the external parts of the body with any mechanical or electrical apparatus or appliances, or with rubbing alcohol, lineaments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations; and massage by means of baths, including, but not limited to, Turkish, Russian, Swedish, Japanese, vapor, shower, electric or magnetic massages, alcohol rubs, or any other type of system for treating or manipulating the human body with or without the character of a bath. Massage includes acupuncture, acupressure, aromatherapy and reflexology.
- G. "Massage Establishment": any establishment having a fixed place of business where any person engages in, conducts, or carries on, or so permits, any business of giving a massage.
- H. "Massage Technician" or "Massage Trainee": any person who administers a massage to another person, for any form of consideration.

I. "Out Call Massage Service": administration of "massage," for any form of consideration at a location designated by the customer other than a legally permitted massage establishment.

J. "Person": as defined in Section 1.10.010.

K. "Recognized School of Massage": (1) any institution which: has been approved by the California Department of Consumer Affairs – Bureau of Private Postsecondary and Vocational Education pursuant to Education Code § 94915; teaches the theory, ethics, practice, profession, or work of massage; and requires for graduation a resident course of study not less than 500 hours; or (2) any institution outside California that complies with standards commensurate with those set forth in this definition and has obtained certification under any similar state certification program, if such exist, which teaches the theory, ethics, practice, profession or work of massage. "Recognized school of massage" does not include schools offering a correspondence course not requiring attendance.

L. "Reflexology": the application of pressure to reflex points in hands, feet or ears by means of hands, thumbs and fingers.

#### **§ 5.45.010 Applicability of Chapter.**

A. The provisions of this Chapter shall not apply to the following persons when engaged within the scope of their respective professional duties:

1. Physicians, surgeons, chiropractors, osteopaths, or physical therapists that are duly licensed to practice their respective professions in the state of California.

2. Nurses registered under the laws of the state of California.

3. Barbers and beauticians who are duly licensed under the laws of the state of California. This provision shall apply solely to the massaging of the neck, face, scalp and hair of the customer or client.

4. The medical staff of hospitals, nursing homes, sanitariums, or other health care facilities duly licensed by the state of California.

5. Coaches and trainers of accredited high schools, junior colleges and colleges.

6. Trainers of amateur, semi-professional or professional athletes or athletic teams.

B. The provisions of this Chapter shall apply to independent contractors of such persons if the independent contractor is engaged in, or purports to be engaged in, the business of massage.

**§ 5.45.015 (Reserved).**

**§ 5.45.020 Out Call Massage Service: Illegal.**

No person shall engage in out call massage or to operate business providing out call massage.

**§ 5.45.025 Massage Establishments: Permit Required.**

It is unlawful for any person to operate a massage establishment without first obtaining, and maintaining in full force and effect, a massage establishment permit for such business, in addition to any other license or permit required by the City.

**§ 5.45.030 Massage Establishments: Permit Application.**

A. An applicant for a massage establishment permit shall submit to the Chief an application and a non-refundable application fee in an amount established by City Council Resolution. The applicant shall include a copy of the fee receipt with the application.

B. The application fee shall be in addition to any other business license or tax, permit fee or any fee required by this Code.

C. The applicant shall not operate its proposed massage establishment until the City has issued all necessary permits and licenses.

D. The application shall include, under penalty of perjury that all of the information submitted is true and correct:

1. The applicant's full true name, any other names used; date of birth, any other date of birth used; sex, height, weight, color of hair, color of eyes; California Driver's License number, or California Identification number; Social Security number, present residence address and telephone number. In addition, the applicant shall submit 2 photographs of the applicant that meet Police Department requirements and, if required by the Chief, his or her fingerprints.

2. The applicant's residences, and the dates thereof, for the prior five years.

3. The applicant's business, occupation, and employment history and the dates thereof, for the prior five years.

4. The applicant's entire permit and license history, and the dates and types thereof, including any permit or license issued for a massage establishment, massage technician or adult business. The applicant shall indicate whether any such permit or license was revoked or suspended and, if so, the reasons.

5. The applicant's entire record of criminal convictions (except non-felony traffic offenses) and ordinance violations, and the dates and places thereof.

6. Acceptable written proof that the applicant is at least 18 years of age.

7. A certificate from a medical doctor stating that each proposed Massage Technician has, within 30 days immediately prior thereto, been examined and found to be free of any contagious or communicable disease.

8. The name and address of any massage business or other like establishment owned or operated by any person whose name is required to be given pursuant to this Section.

9. A complete description of all services to be provided at the massage establishment and of any other business to be operated on the same or, when owned or controlled by the applicant, adjoining premises.

10. The name, address, date of birth and position of each person who is or will be employed in the massage establishment.

11. If the applicant is a corporation, its name exactly as shown in its Articles of Incorporation or Charter, its state and date of incorporation, and the names and residence addresses of each of its current officers, directors, and any stockholders holding more than 5% of the corporation's stock.

12. If the applicant is a partnership, the name and residence addresses of each of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its Certificate of Limited Partnership as filed with the county clerk. If one or more of the partners is a corporation, the provisions of subsection 11 pertaining to corporate applicants shall apply.

13. If the applicant is a corporation or partnership, it shall designate on the application one of its officers or general partners as its responsible managing officer. Such person shall complete and sign all forms and

submit the application fee on behalf of the applicant. The responsible managing officer shall meet all requirements applicable to the applicant.

14. A site plan depicting how the proposed business will comply with the design standards of this chapter and the off-street parking requirements of the zoning ordinance and designating each room or enclosure proposed for massages.

E. The applicant, or, if the applicant is a partnership or corporation, its designated responsible managing officer shall personally submit the application with proof that the application fee has been paid.

F. The applicant shall notify and cause the Health Officer to inspect the proposed site to ensure compliance with all applicable health laws and issue a report. The applicant shall submit a copy of the report to the Police Department. If the applicant does not provide to the Police Department a report determining that the site is in full compliance within 60 days of the date of filing, the application shall be returned; a new application shall be required with the payment of all associated fees. In addition to any fees charged by the City, the applicant shall pay all fees charged by the County Health Department.

G. The applicant shall submit any change of address occurring during the procedure of applying for a massage establishment permit.

**§ 5.45.035 Massage Establishments: Application Review.**

A. The Chief shall have 60 days to perform all necessary investigation related to the application, unless the Department of Justice delays the process, in which case the Chief shall notify the applicant that additional time is needed to complete the process.

B. Upon the completion of the investigation, the Chief shall grant the permit upon finding:

1. The required fee has been paid;
2. The application conforms in all respects to the provisions of this Chapter;
3. The applicant has fully cooperated in the investigation;
4. The applicant has not made a material misrepresentation in the application; and,
5. The applicant has not:

(a) Within 5 years immediately preceding the date of filing the application, been convicted in a court of competent jurisdiction of, or entered a plea of guilty or nolo contendere to:

(i) Any misdemeanor or felony offense which relates directly to the operation of a massage establishment, whether as a massage establishment owner or operator, or as a massage technician;

(ii) Any felony the commission of which occurred on the premises of a massage establishment.

(b) Within 5 years immediately preceding the date of the filing of the application, had any massage establishment, operator, technician, practitioner, or trainee license or permit revoked, denied or suspended.

(c) Within 5 years immediately preceding the date of the filing of the application, been convicted in a court of competent jurisdiction of, or entered a plea of guilty or nolo contendere to:

(i) Any violation of Penal Code §§ 266 (h), 266 (i), 314, 315, 316, 318, or 647 (a), (b), or (d), or any lesser included offense thereof or any other state law involving a crime of moral turpitude;

(ii) Conspiracy or attempt to commit any such offense;

(iii) Any offense in a jurisdiction outside the state of California which is the equivalent of any of the aforesaid offenses;

(iv) Any felony offense involving the sale of a controlled substance specified in Health and Safety Code §§ 11054, 11055, 11056, 11057, or 11058;

(v) Been found guilty of or pleaded guilty or nolo contendere to any lesser-included offense of the above.

(d) Been subjected to a permanent injunction against the conducting or maintaining of a nuisance pursuant to Penal Code §§ 11225 through 11235 or any similar provisions of law in a jurisdiction outside the state of California.

(e) Been required to register under the provisions of Penal Code Section 290.

(f) Engaged in disqualifying conduct.

6. The massage establishment as proposed by the applicant would comply with all the applicable laws, including but not limited to health, zoning, fire, and safety requirements and standards.

7. The applicant is at least 18 years of age.

8. The applicant possesses the requisite background and qualifications to conduct a bona fide massage establishment.

9. The applicant has not violated the provisions of this Chapter, or any similar ordinance, law, rule or regulation of any other public agency, which regulates the operation of massage establishments.

10. The subject premises have been inspected by the Health Officer and found to be in compliance with all applicable health laws and regulations.

11. The applicant has obtained a conditional use permit pursuant to the zoning ordinance.

C. A permit issued pursuant to this Chapter shall be valid for the term of one year from the date of issuance.

D. The Chief shall deny the permit if the applicant does not fulfill the requirements of this Chapter. The applicant may appeal the denial as set forth in Section 5.45.105.

E. No massage establishment permit shall be issued to any person who has an Adult Entertainment Permit issued by the City or similar permit in another jurisdiction.

**§ 5.45.040 Massage Establishments: Permit Non-assignable.**

A. Subject to the exception below for partnerships, no massage establishment permit may be sold, transferred, or assigned by the permittee, or by operation of law, to any other person or persons; any such sale, transfer, or assignment, or attempted sale, transfer, or assignment, shall be deemed to be a voluntary surrender of the permit and it shall thereafter be invalid. If the permittee is a corporation, its massage establishment permit shall be invalid when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of a permit, or any stock authorized but not issued at the time of the granting of a permit, is thereafter issued and sold, transferred, or assigned.

B. Notwithstanding subsection A, if one or more partners of a partnership which is a permittee dies during the life of the permit, one or more of

the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such permit; in such case, the permittee shall thereafter be deemed to be the surviving partner(s).

**§ 5.45.045 Massage Establishments: Operating Requirements.**

Each massage establishment permittee shall comply with the following:

A. Each establishment offering massage shall have a valid City massage establishment permit.

B. Each person employed or acting as a massage technician shall have a valid City massage technician permit. It shall be unlawful for any owner, manager, operator, responsible managing officer or employee, or permittee in charge of or in control of a massage establishment, to employ or permit a person to act as a massage technician who is not in possession of a valid, unrevoked City massage technician permit. A massage establishment permit does not authorize any person to perform massages without a valid City massage technician permit.

C. A massage establishment shall not be open, and no massages shall be provided, during the period between 11:00 p.m. and 8:00 a.m. (Ord. No. 1560)

D. Each establishment shall post in a conspicuous public location on the premises the services, prices and minimum lengths of time. All letters and numbers shall be not less than one-inch in height. No service shall be performed and no fee shall be charged or collected for services other than those posted. All arrangements for services to be performed shall be made in a room in the massage establishment that is not used for administration of massages; unless no other such room exists in the establishment. No person shall, after the commencement of any service for any customer, inform the customer that any additional service is available, or ask or inquire of the customer whether he or she desires any additional service to be performed. No person shall perform any service for any customer that was not ordered by the customer prior to the commencement of the service rendered.

E. The permittee shall display in an open and conspicuous place on the premises the massage establishment permit and a picture of each and every massage technician who administers massages in the establishment.

F. Each massage establishment shall keep a written record of the date and hour of each massage, the name and address of each customer, the name of the massage technician administering the massage, and the type of massage authorized and administered. The records shall be maintained for a period of 2 years. Only those officials who are charged with enforcement of this

Chapter shall inspect these records and no information shall be used for any purpose other than enforcement of this Chapter. No massage establishment permittee or employee shall utilize the records in any manner unrelated to enforcement of this Chapter.

G. Each massage establishment shall at all times be equipped with an adequate supply of clean, sanitary towels, coverings and linens. Clean towels, coverings and linens shall be stored in cabinets. Towels and linens shall not be used on more than 1 customer or client, unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than 1 customer or client. Soiled linens and paper towels shall be deposited in separate, approved receptacles.

H. Each massage establishment shall maintain clearly identified separate massage room or rooms, separated dressing facilities and separate toilet facilities for male and female customers.

I. Massage technicians may massage two or more customers in a single room, provided that a technician is present in the room at all times with the customers to preclude sexual activity. (Ord. No. 1560)

J. Each massage establishment shall maintain adequate ventilation to an area outside any room or booth where massage is being performed.

K. Each massage establishment shall thoroughly clean and disinfect with a disinfectant approved by the Health Department wet heat rooms, dry heat rooms, steam rooms, vapor rooms, showers, bathrooms, cabinet rooms and pools, as often as needed and at least once each day the premises are open. Bathtubs shall be thoroughly cleaned with disinfectant approved by the Health Department after each use.

L. Each massage establishment shall maintain in good repair and in a clean and sanitary condition all the establishment's walls, ceilings, floors, and other physical facilities.

M. Instruments utilized in performing massage shall not be used on more than one customer unless they have been properly sterilized.

N. There shall be no full or partial nudity. Employees shall not reveal Specified Anatomical Areas, as defined in Chapter 5.15 of this Code, in the presence of any other person.

O. All employees shall at all times while on the premises be clean and shall wear clean, non-transparent outer garments covering the body from knee to neck.

P. The operator of the massage establishment shall provide individual lockers on the premises for each employee.

Q. No persons shall enter, be, or remain in any part of a massage establishment while in the possession of, consuming or using alcoholic beverages or controlled substances, except pursuant to a prescription for medication. The owner, operator, responsible managing employee, manager, or permittee shall not allow any person in violation of this subsection to enter or remain upon the premises.

R. No massage establishment may operate as a school of massage, or use the same facilities as that of a school of massage.

S. No massage establishment may place, publish or distribute, or so direct or permit, any advertising matter which either depicts any portion of the human body or includes text which would suggest to prospective customers that any service is available other than those services described in Section 5.45.005 A.

T. No massage shall be given in a massage establishment within any cubicle, room, booth, or other area, which is fitted with a door capable of being locked.

U. All exterior doors shall remain unlocked during business hours from the interior side.

V. A massage technician shall not massage any customer who is not wearing clothing that fully covers the customer's genitals. The massage technician shall not massage any female customer whose breasts are not covered by a sheet or other opaque clothing. The massage technician shall not massage any person's genital area. The massage technician shall not massage the breasts of any female.

W. No massage establishment may be open for business unless there is at least one massage technician holding a current, valid permit on the premise at all times.

X. No persons other than the person receiving a massage and the administering massage technician may be within the room where the massage takes place, except as provided in subsection I of this §5.45.045. (Ord. No. 1560)

Y. The permittee shall notify the Chief, in writing, of any change in information concerning the original application within 30 days of such change.

Z. The permittee shall notify the Chief, in writing, of the name and address of each person employed as a massage technician subsequent to the issuance of the permit within 5 business days of that person being employed.

AA. No person licensed to operate a massage establishment shall operate under any name or conduct business under any name or business designation not specified in the license.

**§ 5.45.050 Massage Establishments: Facilities.**

A. The permittee shall provide:

1. Signs in full compliance with the City sign ordinance.
2. Minimum lighting in accordance with National Electric Code Article 220; and at least one artificial light of not less than 40 watts in each room or enclosure designated for massage.
3. Minimum ventilation in accordance with Uniform Building Code Section 1105.
4. Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage.
5. Hot and cold running water at all times.
6. Closed cabinets for storage of clean linens.
7. Adequate dressing, locker and toilet facilities for customers, including a dressing room containing a separate locker (capable of being locked) for each customer, and a minimum of two toilets and two wash basins, one for males and one for females, located in separate rooms. (Ord. No. 1560)
8. A minimum of one separate washbasin shall be provided in each massage establishment for the use of employees.
9. A minimum of one separate wash basin which provides soap or detergent, and hot and cold running water at all times shall be provided in each massage establishment for the use of employees. Such basin shall be located within, or as close as practicable to the area devoted to performing of massage services. Sanitary towels shall be provided at each basin.
10. A table designed and manufactured for medical or massage uses in each room or area designated for massage. No mattresses and bed are allowed.

11. Pads made of durable washable plastic or other waterproof material acceptable to the Health Officer to cover massage tables.

**§ 5.45.055 Massage Establishments: Inspection.**

A. The Chief and the Health Officer shall each have the right to periodically enter and inspect any massage establishment for the purpose of enforcing compliance with all applicable regulations, laws, and provisions of this Chapter.

B. Whenever either the Chief or the Health Officer finds that any provision of this Chapter has been violated, such officer shall issue notice of the violation to the permittee by means of an inspection report or other written notice. The notification shall:

1. Set forth the specific violation or violations found;

2. Establish a specific and reasonable period of time for the correction of the violation or violations. If the issuing officer determines that the violation or violations are minor in nature, or are not continuing violation(s), the officer may issue a warning to the permittee that any further violation of this Chapter may result in the revocation or suspension of the permit; and

3. State that failure to comply with any notice issued in accordance with the provisions of this Chapter may result in revocation or suspension of the permit.

**§ 5.45.060 Massage Establishments: Change of Location or Name; Expansion.**

A. No permittee may relocate a massage establishment to another location within the City without first obtaining: (1) a written determination by the Director of Development Services finding that the proposed location and facilities comply with the Municipal Code; and (2) written authorization from the Police Chief.

B. No permittee may operate under any name not specified in the permit without first securing from the Chief an amended permit reflecting the change.

C. No permittee may expand a massage establishment without first obtaining: (1) a written determination by the Director of Development Services finding that the expansion complies with the Zoning Code; and (2) written authorization from the Police Chief the proposed expansion complies with this Chapter.

**§ 5.45.065 Reserved.**

**§ 5.45.070 Reserved.**

**§ 5.45.075 Massage Technicians: Permit Required.**

It is unlawful for any person to provide massage without first obtaining, and maintaining in full force and effect, a massage technician permit. A permit issued pursuant to this Chapter shall be valid for the term of one year from the date of issuance.

**§ 5.45.080 Massage Technicians: Permit Application.**

A. An applicant for a massage establishment permit shall submit to the Chief an application and a non-refundable application fee in an amount established by City Council Resolution. The applicant shall include a copy of the fee receipt with the application.

B. The application fee shall be in addition to any other business license or tax, permit fee or any fee required by this Code; provided however, that the application fee shall be waived in the event the applicant has paid the fee required by Section 5.45.030 A.

C. The applicant shall not administer massages until the City has issued all necessary permits and licenses.

D. Each application for a massage technician permit shall include the following information:

1. All of the information set forth in subsections 1-7 of Section 5.45.030 D. If certain required information is not applicable, the applicant shall so indicate.

2. A diploma or certification of graduation, and certified copy of transcripts from a Recognized School of Massage. In the event that the applicant has completed at least 3 years of work experience as a massage technician, such applicant shall be required to have completed a resident course of study consisting of not less than 300 hours of instruction, notwithstanding the provisions of Section 5.45.005 F. In the event that the applicant has completed at least 15 years of work experience as a massage technician, such applicant shall be required to have completed a resident course of study consisting of not less than 200 hours of instruction, notwithstanding the provisions of Section 5.45.005 F. The City shall have the right to confirm that the applicant has actually attended class in and graduated from a recognized school of massage. If the school or institution is located outside of California, the applicant shall include: (a) a certified copy of transcripts of his or her record, including dates

and courses, which shows the applicant completed the appropriate course of study; and (b) a copy of the school or institution's approval by its State Board of Education.

3. The full name, address, and telephone number of the massage establishment where the applicant will work. If, subsequent to the original application, the applicant seeks work at a different massage establishment, the applicant shall submit a new application. In such event, the applicant shall pay a new application fee.

4. Such other information as the Police Chief may require in order to discover the truth of the matters herein required to be set forth in the application.

5. A statement signed by the applicant certifying under penalty of perjury that all of the information submitted in connection with the application is true and correct.

**§ 5.45.085 Massage Technicians: Application Review.**

A. The Chief may issue a temporary permit within 7 business days following receipt of a written application for a massage technician's permit, if, having made an initial investigation, the Chief concludes that the applicant has not been previously convicted of a crime involving moral turpitude. A temporary permit shall continue unless the Chief revokes the permit pursuant to the same criteria applicable to permanent permits, or until it automatically expires 60 days after issuance, whichever comes first.

B. The Chief shall have 60 days in which to investigate the application and background of the applicant, unless the Department of Justice delays the process, in which case the Chief shall notify the applicant that additional time is needed to complete the process.

C. Upon the completion of the investigation, the Chief shall grant the permit upon finding:

1. The required fee has been paid;
2. The application conforms in all respects to the provisions of this Chapter;
3. The applicant has satisfied the educational requirements of subsection D.2 of Section 5.45.080 and is at least 18 years of age;
4. The applicant has fully cooperated in the investigation;

5. The applicant has not made a material misrepresentation in the application; and

6. The applicant has not:

(a) Within 5 years immediately preceding the date of filing the application, been convicted in a court of competent jurisdiction of, or entered a plea of guilty or nolo contendere to:

(i) Any misdemeanor or felony offense which relates directly to the operation of a massage establishment, whether as a massage establishment owner or operator, or as a massage technician;

(ii) Any felony the commission of which occurred on the premises of a massage establishment.

(b) Within 5 years immediately preceding the date of the filing of the application, had any massage establishment, operator, technician, practitioner, or trainee license or permit revoked, denied or suspended.

(c) Within 5 years immediately preceding the date of the filing of the application, been convicted in a court of competent jurisdiction of, or entered a plea of guilty or nolo contendere to:

(i) Any violation of Penal Code §§ 266 (h), 266 (i), 314, 315, 316, 318, or 647 (a), (b), or (d), or any lesser included offense thereof or any other state law involving a crime of moral turpitude;

(ii) Conspiracy or attempt to commit any such offense;

(iii) Any offense in a jurisdiction outside the state of California which is the equivalent of any of the aforesaid offenses;

(iv) Any felony offense involving the sale of a controlled substance specified in Health and Safety Code §§ 11054, 11055, 11056, 11057, or 11058;

(v) Been found guilty of or pleaded guilty or nolo contendere to any lesser-included offense of the above.

(d) Been subjected to a permanent injunction against the conducting or maintaining of a nuisance pursuant to Penal Code §§ 11225 through 11235 or any similar provisions of law in a jurisdiction outside the state of California.

(e) Been required to register under the provisions of Penal Code Section 290.

(f) Engaged in disqualifying conduct.

D. A permit issued pursuant to this Chapter shall be valid for the term of one year from the date of issuance.

E. The Chief shall deny the permit if the applicant does not fulfill the requirements of this Chapter. The applicant may appeal the denial as set forth in Section 5.45.105.

**§ 5.45.090 Massage Technicians: Prohibited Conduct.**

A. A massage technician shall not massage any customer who is not wearing clothing that fully covers the customer's genitals. The massage technician shall not massage any female customer whose breasts are not covered by a sheet or opaque clothing. The massage technician shall not massage any person's genital area. The massage technician shall not massage the breasts of any female.

B. Massage technicians shall at all times on the premises of the massage establishment be clean and wear clean, non-transparent outer garments covering the body from knee to neck.

C. No massage technician may perform a massage in any location other than at a massage establishment holding a valid massage establishment permit.

D. No massage technician may perform a massage at any location other than that location specified on the massage technician's permit.

E. No massage technician shall engage in the following activity at a massage establishment:

1. Sexual activity.
2. Unlawful solicitation of sexual activity.
3. Transfer of controlled substances.
4. Conduct prohibited by this Chapter.

**§ 5.45.095 Massage Establishments and Technicians: Notice of Violations and Permit Suspension or Revocation.**

A. After an investigation and upon determining that grounds for revocation or suspension exist, the Chief shall furnish written notice of the proposed action to the permittee. The notice shall state the basis for the proposed action and that the permittee may request a hearing within 10 days of the date of the notice. The Chief shall post the notice at the location of the massage establishment and mail the notice by certified mail and regular mail, postage prepaid, addressed to the permittee as the name and address appear on the permit. The decision is final if applicant fails to request a hearing within 10 days of the date of the notice.

B. If a responsible managing officer of a massage establishment permittee violates the operational standards of this Chapter, the corporation or partnership shall propose a new responsible managing officer. The massage establishment permit shall be suspended until the City determines that the proposed designee meets all applicable Chapter requirements. If the City does not accept a proposed designee within 90 days of a violation, the permit shall be canceled.

C. After notice to the permittee and a hearing, if requested, the applicable permit may be revoked or suspended for a defined period of time by the Chief if he or she finds:

1. The permittee has violated any provision of this Chapter on two or more occasions within any 12-month period, and the permittee has been given prior notice of the earlier violation.

2. Any of the events in Sections 5.45.035 B 5, 5.45.085 C 6 and 5.45.090 have occurred.

3. The permittee has engaged in fraud, misrepresentation, or false statement in operating the massage establishment.

4. The massage establishment permittee has continued to operate the massage establishment after the massage establishment permit has been suspended.

5. The massage technician permittee has continued to administer massage after the massage technician permit has been suspended.

D. The Chief or his or her authorized representative shall conduct the hearing requested by the permittee. The permittee shall be permitted to present evidence, both written and oral, examine witnesses, if any, and present such argument to the Chief, as the permittee deems necessary. The permittee may be represented by counsel at the permittee's expense. The hearing shall be informal in procedures, and the rules of evidence shall not apply, except that

hearsay evidence shall not be the sole basis for any decision to suspend or revoke the permit.

E. The decision and action of the Chief shall be communicated in writing to the permittee within 7 days of the date of the hearing, and shall be appealable to the City Manager in accordance with Section 5.45.105 of this Chapter.

F. Wherever a permit has been revoked under the terms of this Chapter, neither the former permittee, nor any affiliated person or entity, whether an individual, partnership, corporation, shall be granted a new permit for a period of 5 years from the date of the revocation.

#### **§ 5.45.100 Permit Renewal.**

Permittees shall submit an application for renewal to the Chief no sooner than 60 days and no later than 45 days prior to the expiration of the permit. A renewal application shall include a renewal application fee established by Council Resolution and the items required for an initial application, except as follows:

1. No additional fingerprints will be required if the applicant's fingerprints are already on file with the city.

2. No additional site plan will be required if the applicant declares that the establishment continues to operate in accordance with the site plan submitted in conjunction with the initial application.

3. No written proof of educational requirements will be required if the massage technician's proof is already on file with the city.

#### **§ 5.45.105 Appeal.**

A. Whenever an applicant or permittee is entitled to appeal a determination of the Chief, the appeal shall be filed in writing with the City Clerk not later than 15 days following the date of the notice of the determination. The appeal shall specify the basis for the appeal, the action requested, and the name and address of the permittee.

B. If a timely written appeal is filed, the City Manager shall set a hearing date and instruct the City Clerk to give such notice of hearing as may be required by law.

C. If no such appeal is timely filed, the decision of the Chief shall be final.