

TITLE 5: BUSINESS REGULATIONS

Chapter

5.01. BUSINESS LICENSE REGISTRATION PROGRAM

**5.06. VIDEO FRANCHISE FEES, CUSTOMER SERVICE AND
OTHER VIDEO-RELATED MATTERS**

**5.20. FORECLOSED RESIDENTIAL PROPERTY
REGISTRATION**

5.24. LICENSURE OF TOBACCO RETAILERS

**5.45. LICENSING OF MASSAGE BUSINESSES AND
ESTABLISHMENTS**

CHAPTER 5.01: BUSINESS LICENSES

Section

- 5.01.010 Definitions.
- 5.01.020 Business license required.
- 5.01.030 License required for each business location.
- 5.01.040 Business license application.
- 5.01.050 Annual renewal.
- 5.01.060 Posting license.
- 5.01.070 Form and content of license.
- 5.01.080 Powers and duties of City Clerk regarding licenses.
- 5.01.090 Transfer of business license.
- 5.01.100 Compliance with other laws and regulations.
- 5.01.110 Evidence of doing business within the City.
- 5.01.120 Exemptions from licensing requirement
- 5.01.130 Fees.
- 5.01.140 Penalties for violation.

(b) “City Clerk” shall mean the City Clerk of the City of Canyon Lake or his or her designee(s).

(c) “Employee” shall mean either 1) any person engaged or employed by any business which business withholds, or is required to withhold, compensation for the purpose of paying State or Federal taxes as required by the Franchise Tax Board or Internal Revenue Service; or 2) any person who is regarded as the employee of any business for purposes of the Worker's Compensation laws of the State of California, including (without limitation) a real estate agent working for, or engaged by, a real estate broker and which business is subject to the provisions of this Chapter.

(d) “Home occupation” means those uses customarily conducted in a residence incidental and secondary to its use as a residence as defined in the Canyon Lake Land Use Ordinance No. 348, Section 21.36.

(e) “Mobile operator” means a business operated on a mobile basis using a vehicle to visit customer locations, and includes mobile vehicle washing; pest control; carpet, drape or furniture cleaning; concrete mixing; masonry; painting or coating; landscaping; pool or fountain cleaning; port-a-potty delivery and service on a regular basis. It excludes deliveries such as those for furniture, items ordered on-line.

(f) “Person” means a natural individual, corporation, whether foreign or domestic, joint venture, association, partnership, estate or trust, or any combination thereof, acting as a unit and engaged in any business in the City, other than as an employee, and specifically includes an independent contractor and a sole proprietorship.

(g) “Professional associate” or “Associate” means a professional separately licensed by the State, including but not limited to realtors, attorneys, beauticians, barbers, manicurists, dentists, dental

5.01.010 Definitions.

The following words and phrases shall, for the purposes of this Chapter, be defined as follows, unless it is clearly apparent from the context that another meaning is intended.

(a) “Business” means professions, trades, or occupations including but not limited to, contractors and subcontractors of all and every kind or calling which may be engaged in for the purposes of earning, in whole or in part, a profit or livelihood, whether or not a profit or livelihood is actually earned, and whether paid for in money, goods, waiver or otherwise. Business includes, but is not limited to, professions, trades or occupations which have a fixed location within the City as well as those which do not have a fixed location within the City but are doing business within the City, including but not limited to mobile operators and home occupations as defined here.

hygienists, veterinarians, doctors, podiatrist and chiropractors.

(Ord. 121, passed 11-10-2009)

5.01.020 Business license required.

Unless exempted pursuant to Section 5.01.120, no person shall engage in any business within the City without a valid business license issued pursuant to this Chapter and without complying with any and all regulations applicable to such business.

(Ord. 121, passed 11-10-2009)

5.01.030 License required for each business location.

A separate business license shall be required for each fictitious business name statement or dba for a person or business doing business within the City from separate fixed locations. A separate business license shall be required for each location of a business within the City.

(Ord. 121, passed 11-10-2009)

5.01.040 Business license application.

(a) An application for a business license shall be filed utilizing a form provided by the City. The permit application shall not be deemed filed unless the form has been filled out completely and accurately by the applicant. The applicant shall be the person desiring to engage in the business or such person's duly authorized representative.

(b) All applications shall be accompanied by a filing fee in an amount established by resolution of the City Council or a request for a waiver of such fee pursuant to this Chapter. Additional fees shall be owing for late applications or repeated failure to file for a license.

(c) The application shall contain the following:

(1) The name, business address, mailing address, cell and business telephone numbers, email and fax number of the person or entity who will engage

in the business (the "applicant"); if different, the name, business and mailing address, telephone number and fax number and after hours emergency; and the person authorized to accept service of process.

(2) If the business is advertised to the public by name or designation other than the name of the applicant, that name or designation and proof of filing of a fictitious business name statement;

(3) A detailed description of the nature of the business, including, but not limited to, a listing of all Federal, State, County and other required permits or licenses, including any contractor's state permit or license number and category;

(4) An employer shall disclose on the application the number of professional associates as defined herein as of the date of the license application or renewal and the type of license held by each such person. An additional fee shall be payable annually for each associate. The employer also shall disclose on the application the total number of employees of the business as of the date of the application.

(5) The signature of the applicant or corporate agent acknowledging under penalty of perjury that the information provided on the application is true and correct to the best of that person's knowledge and that the applicant or corporation is responsible for all applicable fees; and such other and further information as the City Council or City Clerk may deem necessary.

(6) The application shall not be deemed filed unless the form has been filled out completely and accurately and all applicable fees paid.

(Ord. 121, passed 11-10-2009)

5.01.050 Annual renewal.

(a) The first business license obtained by a business shall be good through December 31 of each year no matter on what date it was obtained.

(b) Thereafter, a business license shall be valid from January 1 through December 31 of each year. There shall be no refund if the business closes or the

number of associates decreases during any year; there shall be no additional charge during that year if the number of associates increases.

(c) The license shall be renewed annually by the filing of a renewal application, accompanied by payment of the appropriate fee, not more than 60 days nor less than 20 working days prior to the expiration of the current license. The renewal and fee shall be delinquent after January 31, of each year.

(d) The City may send a notice of renewal to each person holding a business license approximately 90 days before December 31 of each year (i.e., by the end of September of each year). The notice shall be mailed to the business address set out in the application and shall remind the person of the requirement to renew his or her business license and how to do so. Failure of the City to send or the person to receive a renewal notice shall not waive the renewal requirement.
(Ord. 121, passed 11-10-2009)

5.01.060 Posting license.

Every business license shall be posted in a conspicuous place upon the premises where such business is conducted or, for a home occupation, the license shall be produced in response to a request from the City Clerk, duly authorized law enforcement officers and City special enforcement officers. Mobile operators shall have the license or a copy of it available in their vehicles.
(Ord. 121, passed 11-10-2009)

5.01.070 Form and content of license.

(a) The business license shall be prepared and issued upon approval by the City Clerk. The license shall be deemed null and void if the license application contains any false or misleading information. In addition, it shall be considered a violation of this Code, punishable as set out in Section 5.01.170 hereof, intentionally to give any false or misleading information on the application.

(b) Each license shall state on its face the following:

- (1) The name of the business or person to whom the license is issued;
- (2) The location of the business;
- (3) The date of the issuance of the license;
- (4) The date of the expiration of the license;
- (5) The license control number, unique to each license;
- (6) The official seal of the City;
- (7) All other required permit or licenses, including but not limited to contractor's licenses;
- (8) The number of associates, if any, which the business had; and
- (9) Such other and further information as the City Council or City Clerk shall deem appropriate.
(Ord. 121, passed 11-10-2009)

5.01.080 Powers and duties of City Clerk regarding licenses.

(a) The City Clerk may enforce the provisions of this Chapter with duly authorized law enforcement officers or City special enforcement officers, the City Clerk shall have the authority to enter, examine all places of business within the City and their business license records or business vehicles to confirm compliance with this Chapter. Any such entry shall comply with applicable constitutional requirements.

(b) The City Clerk performing the duties of the license collector shall have access to State and local summary criminal history information in order to fulfill his or her duties regarding licensing. Penal Code Section 432.7, Stats. 1974 and Ch. 1321 shall apply to such information.

Canyon Lake - Business Regulations

(c) The City Clerk at a minimum shall keep a record of all licenses issued, the term, to who issued, the location of the business, the amount of the fee paid and any other information as directed by the City Council.

(Ord. 121, passed 11-10-2009)

5.01.090 Transfer of business license.

(a) When a business is transferred from one location to another location within the City, the current license may be amended by the City Clerk to authorize the conduct of the business at the new location without an application for transfer or payment of a transfer fee.

(b) Otherwise, application for any transfer or assignment shall be filed on a form provided by the City for that purpose prior to the effective date of the transfer or assignment. The transfer application shall not be deemed filed unless the form has been filled out completely and accurately by the licensee or such person's duly authorized representative and the fee paid. A transfer or assignment may be from one person to another.

(c) The application shall be accompanied by a transfer fee in an amount established by resolution of the City Council. Additional fees shall owe for a late application.

(Ord. 121, passed 11-10-2009)

5.01.100 Compliance with other laws and regulations.

(a) The fact that a business license has been issued does not authorize or legalize any business or business activity which violates any Federal, State or local governmental statute, ordinance, public or private rule or regulation, or CC&R's, nor shall the issuance of a business license be construed as permitting a business in a zone or land use district where such business otherwise is not permitted.

(b) In any trade or profession where a City, County, State or Federal license or permit is required, such license or permit shall first be exhibited to the

City Clerk before a City business license will be issued. However, the City shall not be responsible for verifying or confirming the validity of any other license, permit or requirement.

(c) A City business license shall not be issued until an applicant has obtained all necessary City land use entitlements or City building permits to operate the business in and at its location. In applying for a building permit or other entitlement for a business, the applicant shall provide the license control number. Notwithstanding, nothing in this Subsection shall preempt any POA or CC&R restrictions which must be met separately.

(Ord. 121, passed 11-10-2009)

5.01.110 Evidence of doing business within the City.

The following circumstances shall be considered evidence that a person is conducting business within the City.

(a) The person consistently represents, holds out or advertises in any sign advertising, card, brochure, website or other on-line listing, telephone book, magazine, newspaper or otherwise that he/she is doing business in the City.

(b) The person holds a current license or permit issued by a governmental entity indicating the person is doing business within the City.

(c) The person is observed by reliable witnesses regularly providing services to those within the City.

(d) Notwithstanding, a person may provide to the City a sworn statement, acceptable in form to the City, stating that he or she is not doing business within the City.

(e) Real estate agents or brokers who post signs within Canyon Lake even without an office location in the City are doing business in the City.

(Ord. 121, passed 11-10-2009)

5.01.120 Exemptions from licensing requirement.

No business license (either application or fee) shall be required of or for:

(a) Places of worship to the extent used for the exercise of religion (not including schools, housing or businesses);

(b) Occasional garage sales, including, but not limited to, yard, lawn, attic, patio, moving or rummage sales held to sell, exchange, trade or dispose of surplus household or personal goods belonging to those conducting the garage sale on their own residential premises, which sales may not be conducted for more than three 48-hour periods per year;

(c) Occasional, seasonal or sporadic temporary bazaars, carnivals or other sales conducted by charitable or public service organizations (IRC Section 501(c)(3), (4) or (6), or California nonprofit public benefit corporations or similar unincorporated associations) for fund raising purposes where conducted with a temporary use permit or where no temporary use permit is required;

(d) Minors selling goods to raise funds for schools or for established non-profit public service organizations such as Boy Scouts, Girl Scouts, Camp Fire Girls and so forth;

(e) Domestic household help in the employ of an individual homeowner, or a baby sitter caring for six or fewer children in total at a given address, including the sitter's own children; or

(f) Group homes and family day care homes as provided by State law; and other businesses which the City may not regulate.
(Ord. 121, passed 11-10-2009)

5.01.130 Fees.

The City Council by resolution shall determine and adopt a schedule of fees to cover the cost of business licensing and regulation. Additional fees shall be charged for late applications or failures to file for a

license. Such fees shall be a personal debt of the applicant.
(Ord. 121, passed 11-10-2009)

5.01.140 Penalties for violation.

(a) The City may enforce the requirements of this Chapter in any manner legally available, including through administrative citation.

(b) Any person who violates any provision of, or fails to comply with any requirement of, this Chapter is guilty initially of an infraction and, upon conviction thereof, shall be punished in accordance with Canyon Lake Municipal Code Section 1.01.200; a third violation shall be a misdemeanor, and shall be punished as set out therein.

(c) Any violation of this Chapter is deemed a public nuisance.
(Ord. 121, passed 11-10-2009)

**CHAPTER 5.06: VIDEO FRANCHISE FEES, CUSTOMER SERVICE
AND OTHER VIDEO-RELATED MATTERS**

Section

- 5.06.010 Regulation of video franchises and definitions.
- 5.06.020 State video franchise fees.
- 5.06.030 Audit authority.
- 5.06.040 Customer service and protection standards.
- 5.06.050 Material breach of customer standards.
- 5.06.060 Response to notice of breach.
- 5.06.070 Request for exemption from breach.
- 5.06.080 Penalties for customer service and protection standards violations.
- 5.06.090 Appeal of penalties for customer service and protection standards violations.
- 5.06.100 City response to State video franchise applications.

percentage of the gross revenues of State franchise holders. The City also hereby establishes and enforces penalties for violations of customer service rules. The City retains authority, without change, over all City video franchisees until such time as they no longer hold a City franchise, or are no longer operating under a current City franchise. The City may modify, renew, extend or terminate existing City video franchises.
(Ord. 109, passed 11-5-2008)

5.06.020 State video franchise fees.

(a) Each SVFH, shall pay a fee to the City equal to 5% of that SVFH's gross revenue, as defined in CPUC section 5860, pursuant to CPUC section 5840(q)(1). Failure to pay the fee in a timely manner will incur fines to the City as set out in that section.

(b) In addition, each SVFH shall pay a PEG channel fee to the City equal to 1% of that SVFH's gross revenue, as defined in 5.06.1.1, pursuant to CPUC section 5870(n). This fee shall be in addition to the fee paid in 5.06.1.1. The City shall expend these monies for the purpose of supporting PEG channel facilities and programming.
(Ord. 109, passed 11-5-2008)

5.06.030 Audit authority.

Not more than once annually, the City Manager or his/her designee may examine and perform an audit of an SVFH's records kept in the ordinary course of business, such as those commonly used and relied upon for accounting purposes or in preparation of financial statements or pro formas, to ensure compliance with this section. In the event that the audit discloses an underpayment of 5% or more, the SVFH shall pay for

5.06.010 Regulation of video franchises and definitions.

(a) Under Division 2.5 of the California Public Utilities Code (“CPUC”), the Digital Infrastructure and Video Competition Act of 2006, commencing at Section 5800, et seq. (“DIVCA”), the California Public Utilities Commission (PUC) has the exclusive authority to grant and administer State video franchises. The definitions contained in DIVCA apply to this Chapter.

(b) Notwithstanding, DIVCA confers certain rights and responsibilities to the City of Canyon Lake with respect to State video franchise holders (“SVFH”) operating within the City under DIVCA, including but not limited to, receipt of fees for rent of right-of-ways in the form of a franchise fee and additional fees for support of public, educational, and governmental (“PEG”) access channels. Both fees are based on a

the audit. If the audit discloses that all fees have been paid, the City shall pay for the audit; otherwise, the cost shall be divided evenly between the parties. (Ord. 109, passed 11-5-2008)

5.06.040 Customer service and protection standards.

(a) An SVFH shall comply with all applicable State and Federal customer service and protection standards pertaining to the provision of video service. In addition, the SVFH shall prepare, adopt and annually review its own consumer standards regarding installation and service; telephone and office hours; billing procedures; termination of service; change in service; and complaint procedures. Each SVFH annually must distribute such standards to the City and to each customer.

(b) The City shall give the SVFH written notice of its failure to distribute such notice. If distribution does not occur within 60 days after receipt of the notice, the City may impose and collect a penalty of \$500 for each year in which the notice is not distributed after such notice. (Ord. 109, passed 11-5-2008)

5.06.050 Material breach of customer standards.

Where the City Manager determines that an SVFH has materially breached any provision of its own consumer standards or of State or Federal law, including but not limited to nonpayment of franchise fees, the City may provide written notice of the breach (“notice of breach”) to the SVFH.

(a) A “material breach” is defined as an SVFH's substantial and repeated failure to comply with service quality and other standards of Federal or State law or of its own consumer standards.

(b) Receipt of a notice of breach shall be deemed to have occurred either:

(1) Five calendar days after the date on which the notice of breach was deposited to be mailed with the United States Postal Service or equivalent;

(2) Two calendar days after the date the notice of breach was sent via facsimile or e-mail; or

(3) On the date an SVFH's designated representative was personally served the notice of breach. (Ord. 109, passed 11-5-2008)

5.06.060 Response to notice of breach.

(a) An SVFH which has been issued a notice of breach shall either remedy the conduct described in the notice of breach (“notice of breach conduct”) to the satisfaction, and in the sole discretion of, the City Manager no later than 30 calendar days from the date of receipt of the notice; or assert that the SVFH should be exempted from violation because the violation is out of its control.

(b) If the SVFH asserts that the notice of breach conduct is out of its reasonable control, then the SVFH shall submit a request for exemption from breach. A request for exemption from breach shall contain all of the following points in order to be considered by the City Manager: It shall be in writing; it shall describe in detail why the conduct was out of its reasonable control; it shall describe in detail the notice of breach conduct, the reasons for its occurrence, all factors and/or influences asserted to be outside the SVFHs control thereby creating the conduct, and all facts precluding the SVFH's ability to remedy; and it shall include as attachments any and all supporting documentation which the SVFH wishes the City Manager to review. Only information so submitted shall be considered by the City Manager. (Ord. 109, passed 11-5-2008)

5.06.070 Request for exemption from breach.

(a) Where the City Manager receives a request for exemption from breach described the City Manager shall review the request for exemption from breach promptly; and shall render a final determination on the request for exemption from breach. This final determination shall be in writing and shall include one of the following conclusions: (i) The notice of breach conduct is outside the SVFH's control and is therefore

exempt; or (ii) The notice of breach conduct is within the SVFH's control and is therefore subject to the provisions of this Chapter.

(b) The City Manager's decision is final.
(Ord. 109, passed 11-5-2008)

5.06.080 Penalties for customer service and protection standards violations.

(a) Each SVFH that fails to remedy the notice of breach conduct in violation of this Section (“un-remedied breach”) and/or that fails to obtain an exemption determination shall pay a penalty to the City as set out here.

(b) Penalties for an SVFH's failure to remedy the notice of breach conduct shall accrue daily as follows:

(1) Commencing on the first calendar day following expiration of the time to cure through the date of remedy of the breach; or

(2) Commencing on the first calendar day following receipt of denial of a request for exemption from breach through the date of remedy of the breach.

(c) An SVFH shall pay a penalty for the un-remedied first notice of breach not to exceed a fine of \$500 for each calendar day, not to exceed \$1,500 for each occurrence of an un-remedied breach.

(d) For a second material breach of a similar nature as the notice of breach for which a penalty was assessed, occurring within 12 months from the date of the first notice of breach, whether remedied or not, an SVFH shall pay a penalty accruing not to exceed \$1,000 per calendar day, not to exceed \$3,000, for each occurrence of an un-remedied breach.

(e) For a third or further material breach, of a similar nature as the notice of breach for which a penalty was assessed, occurring within the same 12 months of the date of the notice of breach, whether or not remedied an SVFH shall pay a penalty not to exceed \$2,500 per calendar day, not to exceed \$7,500 for each occurrence of an unremedied breach.
(Ord. 109, passed 11-5-2008)

5.06.090 Appeal of penalties for customer service and protection standards violations.

(a) An SVFH assessed a penalty under Section 5.06.080 may appeal the assessed penalty only by satisfying all of the following: Submit to the City Manager a written appeal describing in detail the basis for the appeal; and file the appeal no later than 60 calendar days from receipt of the notice of penalties;

(b) Where the City Manager receives an appeal under this Section, the City Manager shall review the appeal promptly, render a final determination on the appeal, and provide a final written determination; and

(c) The City Manager's determination on the appeal shall be final. The penalty owing shall be a debt to the City that may be collected in any legally available manner.
(Ord. 109, passed 11-5-2008)

5.06.100 City response to State video franchise applications.

(a) Applicants for State video franchises within the boundaries of the City of Canyon Lake shall concurrently provide complete copies to the City of any application or amendments to applications filed with the PUC. The applicant shall provide one complete copy to the City Clerk, and another complete copy to the City Manager.

(b) In its discretion, the City may provide any comments to the PUC on the application or amendments to the application.
(Ord. 109, passed 11-5-2008)

CHAPTER 5.20: FORECLOSED RESIDENTIAL PROPERTY REGISTRATION

Section

- 5.20.010 Purpose and intent.
- 5.20.015 Definitions.
- 5.20.020 Inspection and registration requirements.
- 5.20.025 Posting.
- 5.20.030 Maintenance requirements.
- 5.20.040 Security requirements.
- 5.20.050 Enforcement.
- 5.20.060 Notice of violations.

5.20.010 Purpose and Intent.

(a) The purpose of this Chapter is to establish a registration program for foreclosed residential properties to provide contact information for lenders and others acquiring such property, encourage them to obtain local agents to deal with such property, and enforce maintained and security standards whether such property has been neglected during the foreclosure process or abandoned.

(b) This Chapter is not intended to and does not impose on foreclosed properties higher maintenance standards than required of other residential properties within the City.

(c) This Chapter is not intended to change the standards for property maintenance set out in Canyon Lake Municipal Code Chapter 11.20 but to establish a procedure to confirm compliance for defaulted and abandoned foreclosed properties.
(Ord. 118, passed 10-6-2010)

5.20.15 Definitions.

The following words and phrases are defined as follows when used in this Chapter.

(a) “Abandoned” means a vacant residential property where ownership has or will be transferred as a result of foreclosure and which displays evidence of abandonment.

(b) “Evidence of abandonment” means any condition that alone or combined with other conditions would lead a reasonable person to believe that the property has been abandoned and/or is not occupied by authorized persons. Such conditions include, but are not limited to overgrown and/or dead vegetation; unmaintained pools or spas; an accumulation of newspapers, circulars, flyers and/or mail; past due utility notices and/or disconnected utilities; an accumulation of trash, junk and/or debris; the absence of window coverings such as curtains, blinds and/or shutters; the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents, or government employees that the property is vacant and/or has been abandoned; unauthorized utility hookups; signs of camping or other unauthorized habitation.

(c) “Evidence of neglect” means any condition that alone or combined with other conditions would lead a reasonable person to see that the property is not maintained to the same standards as others in the vicinity. Such conditions include, but are not limited to overgrown or dead vegetation; weeds or unmowed lawns; dirt or trash accumulation, unmaintained pools or spas; broken windows.

(d) “Foreclosed property” means a residential property within the City where title has transferred as the result of a foreclosure sale, deed in lieu of foreclosure or similar arrangement. Foreclosed property includes but is not limited to vacant or abandoned property.

Canyon Lake - Business Regulations

(e) “Local” shall mean located within the City of Canyon Lake or within 30 miles thereof.

(f) “Vacant” means a residential building/structure that is not occupied by authorized persons, and includes abandoned property, including property which shows evidence of vacancy. (Ord. 118, passed 10-6-2010)

5.20.020 Inspection and registration requirements.

The purpose of inspection and registration is to obtain identification and location of defaulted and abandoned foreclosed properties and their condition, contact information regarding the new owner, and to inform owners of the maintenance and security standards applicable to such property.

(a) Notice of Default. At the time of recording a notice of default for any real property within the City, any person or entity who or which holds a deed of trust secured on such real property shall perform or cause to be performed a physical inspection of the exterior of that property to determine if it is vacant or if it shows signs of neglect. If the property is vacant, it is deemed to be abandoned property or shows evidence of vacancy, it is, by this Chapter, deemed abandoned and subject to registration within 15 days thereafter as provided by Subsection (c) hereof, as well as other requirements of this Chapter.

(b) If the property is occupied but remains in default, it shall be inspected by the beneficiary/trustee, or his or her designee, monthly until: (i) the default is cured or (ii) it is found to be vacant and deemed abandoned; or (iii) it is foreclosed upon (whether or not vacant or abandoned) and registration and other requirements of this Chapter apply.

(c) Registration. As provided in Subsections (a) or (b) above, the new owner of the property or its agent must register the property under this Chapter and as set out in Subsection (b) below and thereafter register the property with the City as set out in this Chapter. If the new owner does not have a working office located within Riverside County, the new owner shall employ

a local agent/property manager as set out in Subsection (g) below.

(d) Registration Information. The registration shall contain the following information: Address and APN for the foreclosed property; name and current contact information for the owner, including an emergency contact number; name and current contact information for the owner's local agent or local property manager, and an emergency local contact number; the date of acquisition of the property and the status of the property as of the inspection. No address may be a post office box. Contact information shall be updated within 15 calendar days of any change to keep it current. Registration shall be renewed annually.

(e) Registration Fee. At the time of initial registration of the property, and annually thereafter or until the property is sold to a third party, the owner shall pay a registration fee in an amount established by City Council resolution. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required without pro-rata. Subsequent registrations and fees are due January 1st of each year and must be received no later than January 31st of the year due. Late payments will be subject to a penalty determined in the fee resolution.

(f) Inspections. At the time of and subsequent to registration, but no less than monthly, the owner or its local agent shall perform ongoing inspections of the property to determine whether it meets the maintenance standards in this Chapter and the City Code as a whole or whether it has been neglected during the foreclosure process and/or abandoned.

(g) Appointment of Local Agent or Property Manager. An owner (including but not limited to a bank or other lender) which does not have a working office located within Riverside County shall appoint and hire a local agent or property manager to register, inspect, maintain and secure the property.

(h) Termination of Registration. At such time as the owner of the foreclosed property sells the property to a third party, the owner shall notify the City in writing of such sale in order to terminate the

registration requirement. Such notice shall include current contact information for the purchaser. (Ord. 118, passed 10-6-2010)

5.20.025 Posting.

The property shall be posted with the name and 24-hour contact information for the owner or the owner's agent or property manager. Such posting shall be placed on an interior window with the text facing out or in a secure exterior area. The posting shall be at least 18 x 24 inches and legible from the street. It is a violation of this Chapter to fail to post the property or to maintain current information in the posting. (Ord. 118, passed 10-6-2010)

5.20.030 Maintenance requirements.

Foreclosed properties shall be maintained to the same standards as apply to similar properties within the City in order to avoid creation of a public nuisance under Canyon Lake Municipal Code Section 11.20.010, i.e. they shall be kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, discarded personal items including but not limited to furniture, clothing, large and small appliances, or printed material. These requirements apply regardless of whether the property has been registered or inspected.

(a) The property shall be kept free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

(b) Visible front and side yards shall be watered as necessary (or as allowed); grass mowed and trimmed, plantings trimmed, dead plants, weeds and trimmings removed; without broken concrete or asphalt or the use of plastic sheeting, indoor-outdoor carpet or similar material in yards.

(c) All pool and spa areas shall be fenced and secured as required by law. Pools and spas shall be kept in working order so the water remains clear and

free of pollutants and debris or shall be drained and kept dry and secured.

(d) Failure to maintain the exterior of the property includes but is not limited to allowing excessive foliage growth, failing to take action to prevent or remove trespassers or squatters.

(e) Adherence to this section does not relieve the property owner of any obligations set forth in any covenants, conditions and restrictions and/or homeowners' association rules and regulations which may apply to the property. (Ord. 118, passed 10-6-2010)

5.20.040 Security requirements.

Foreclosed properties shall be secured in a manner to prevent access by unauthorized persons including, but not limited to, the following: the closure and locking of windows, doors (walk-through, sliding and garage), gates and any other opening of such size that may allow a child to access the interior of the property and/or structure(s). In the case of broken windows, securing means the re-glazing or boarding of the window. These requirements apply regardless of whether the property has been inspected or registered. The City's representatives may require additional security measures if needed. (Ord. 118, passed 10-6-2010)

5.20.050 Enforcement.

(a) This Chapter may be enforced by any means legally available, including but not limited to administrative citations. Each requirement (inspection, registration, maintenance and security) may be treated as a separate violation. Failure to maintain the property is subject to fines of \$1,000/day as provided in the City's administrative fine schedule. It shall constitute a new and separate offense for each and every day during any portion of which a violation of, or failure to comply with, any provision or requirement of this Chapter is committed, continued, or permitted by any person.

(b) Violation of Section 5.20.030 and 5.20.040 shall constitute a public nuisance which may be abated pursuant to the provisions of Canyon Lake Municipal Code Chapter 11.20.
(Ord. 118, passed 10-6-2010)

(e) The provisions for registration, inspection and posting may be enforced by administrative citation or other means without compliance with the notice provisions hereof.
(Ord. 118, passed 10-6-2010)

5.20.060 Notice of violations.

In order to levy the maximum \$1,000/day fine provided by State law and the administrative fine schedule for failure to maintain or secure the property, the City shall provide in the following manner:

(a) Written notice of the violation of the provisions of this Chapter, a description of the conditions which constitute such violation, and notice of the City's intent to impose a fine of up to \$1,000/day if the correction of the violation does not commence within 14 days and is not completed within 30 days from the date of the notice or the notice provides for a specific shorter time based upon the determination, as stated in the notice, that the specific property condition listed threatens public health and safety.

(b) Notice of the violation shall be served on the owner and agent or property manager. Notice to the owner shall be mailed to the address set out in the foreclosure deed or the return address on the deed or to any other address which the City knows to be the owner's address. Notice to the agent or property manager shall be served on the agent or property manager at the address posted on the property, on signage on the property, registered with the City, or otherwise known to the City. Failure to receive notice duly sent is not a defense.

(c) The notice shall contain provisions to request a hearing regarding the violation and to protest the fine; such provisions shall be those set out in Canyon Lake Municipal Code Chapter 11.20. The City shall take no further action as to the property upon receipt of such request for hearing until conduct of the hearing and/or other resolution of the matter.

(d) Any fine determined hereunder shall take into consideration timely and good faith efforts by the owner to remedy the violation.

CHAPTER 5.24: LICENSURE OF TOBACCO RETAILERS

Section

- 5.24.010 Purpose and intent.
- 5.24.020 Definitions.
- 5.24.030 Tobacco license prerequisite; application and renewal process.
- 5.24.040 License issuance or renewal; standards.
- 5.24.050 License non-transferable.
- 5.24.060 License term, renewal and reinstatement after expiration; fees.
- 5.24.070 Other licensing requirements and prohibitions.
- 5.24.080 Compliance monitoring.
- 5.24.090 Revocation of license.
- 5.24.100 Enforcement.

5.24.010 Purpose and intent.

The City of Canyon Lake has a substantial interest in promoting compliance with Federal, State, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by minors; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products to minors; and finally, and most importantly, in protecting children from being lured into illegal activity through the misconduct of adults. It is the intent of this chapter to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws at the local level as allowed by State, especially those that prohibit or discourage the sale or distribution of tobacco products to minors, but not to expand or reduce the degree to which the acts regulated by Federal or State law are criminally proscribed or to alter the penalty provided therefore or to regulate in areas already preempted.
(Ord. 99, passed 6-3-2009)

5.24.020 Definitions.

For the purposes of this chapter, the following words and terms shall have the following meanings:

(a) “Arm's length transaction” means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing, parties, neither under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for the primary purpose of avoiding the effect of the violations of this chapter is presumed not to be an arm's length transaction.

(b) “Business” means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold, as well as professional corporations and other entities where legal, medical, dental, engineering architectural or other professional services are delivered.

(c) “City” shall mean the City of Canyon Lake or its designee hereunder for the administration and enforcement of this chapter.

(d) “Department” shall mean the Riverside County Department of Health and Human Services or other county department, if so designated by the City Council by written contract, or any City department designated to administer and/or enforce the provisions of this chapter.

(e) “Proprietor” shall mean a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a

person has a 10% or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have, or can or does share ultimate control over the day-to-day operations of a business.

(f) "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories; and in which at least 80% of the square footage of the available retail floor and shelf space is devoted to the sale of tobacco-related products and accessories. Operation of a hookah lounge as defined by City ordinance does not fall within the definition of a "retail tobacco store."

(g) "Self-service display" shall mean the open display of tobacco products or tobacco paraphernalia in a manner that is accessible to the general public without the assistance of the retailer or employee of the retailer. A vending machine is a form of self-service display.

(h) "Smoking" shall mean possessing a lighted tobacco product, tobacco paraphernalia, or any other weed or plant (including a lighted pipe, lighted cigar, or lighted cigarette of any kind), the lighting of a tobacco product, tobacco paraphernalia, or any other weed or plant (including a pipe, cigar, or cigarette of any kind).

(i) "Tobacco paraphernalia" shall mean cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.

(j) "Tobacco product" shall mean (1) any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco; and (2) any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body but does not include any product specifically approved by the Federal Food and Drug Administration for use in treating nicotine or tobacco product dependence.

(k) "Tobacco retailer" shall mean any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia; "tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

(l) Notwithstanding, as used herein, this chapter shall not be applicable to tobacco products either i) offered for sale in a golf shop operated by a private homeowners association whose purpose is not the sale of tobacco products; or ii) made available only to members or guests of such private homeowners association, in a private bar or restaurant or private club operated by such homeowners association. (Ord. 99, passed 6-3-2009)

5.24.030 Tobacco license prerequisite; application and renewal process.

(a) It shall be unlawful for any person, except for a retail tobacco store, to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer's license pursuant to this chapter for each location at which that activity is to occur and to do so without a valid tobacco retailer's license shall constitute a public nuisance. As used herein, Alicense@ shall include any required review of a license.

(b) A tobacco retailer (including the proprietor of a tobacco retailer) without a valid tobacco retailer's license, including, for example, a revoked license:

(1) Shall keep all tobacco products and tobacco paraphernalia from public view. The public display of tobacco products or tobacco paraphernalia in violation of this provision shall constitute an "offer for sale" for the purposes of Section 5.24.040(c) hereof.

(2) Shall not display any advertisement relating to tobacco products or tobacco paraphernalia that promotes the sale or distribution of such products from the tobacco retailer's location or that would lead a reasonable consumer to believe that such products can be obtained at the tobacco retailer's location.

(c) Nothing in this chapter shall be construed to grant any person obtaining and maintaining a tobacco retailer's license any status or right other than the right to act as a tobacco retailer at the location in the City identified on the face of the license. For example, nothing in this chapter shall be construed to render inapplicable, supersede, or apply in lieu of any other provision of applicable law, including, without limitation, any condition or limitation on smoking in enclosed places of employment made applicable to business establishments by California Labor Code Section 6404.5.

(d) Applications for a tobacco retailer's license or for an annual renewal of that license shall be submitted to the City or its designee, utilizing a form provided by the City or its designee, which application shall be in the name of each proprietor proposing to conduct retail tobacco sales and shall be signed by each proprietor or an authorized agent thereof. It is the responsibility of each proprietor to be informed of the laws affecting the issuance of a tobacco retailer's license. A license that is issued in error or on the basis of false or misleading information supplied by a proprietor shall be revoked pursuant to Section 5.24.100 hereof.

(e) In addition to any other penalty under this chapter, a person found to have engaged in tobacco retailing without a valid tobacco retailers license shall be ineligible to apply for or be issued a tobacco retailing license according to the following:

(1) After a first violation for a person within any 60-month period, no new license may issue for the person as a proprietor until 30 days have passed from the date of last violation.

(2) After a second violation for a person within any 60-month period, no new license may issue for the person as a proprietor until 90 days have passed from the date of last violation.

(3) After three or more violations for a person within any 60-month period, no new license may issue for the person as a proprietor until five years have passed from the date of last violation.

(4) Each day that a person engages in tobacco retailing without a valid tobacco retailers license shall constitute a separate violation.

(f) Tobacco products and tobacco paraphernalia offered for sale or exchange in violation of this chapter are subject to seizure and forfeiture. Forfeited tobacco products and tobacco paraphernalia shall be destroyed.

(g) All applications or renewals shall contain the following information:

(1) The current name, address, and telephone number of each proprietor.

(2) The current business name, address, and telephone number of the single fixed location for which a tobacco retailer's license is sought.

(3) The current name and mailing address authorized by each proprietor to receive all license-related communications and notices; unless a different mailing address is provided, each proprietor shall be understood to consent to the provision of notice at the business address specified above.

(4) Current proof that the location for which a tobacco retailer's license is sought has been issued a valid state tobacco retailer's license by the California Board of Equalization.

(5) Whether or not any proprietor is a person who has been determined to have violated this chapter or has been a proprietor at a location that has been determined to have violated this chapter and, if so, the dates and locations of all such violations.

(6) For a renewal, any change in the information listed during the prior year.

(7) Such other information as the City deems necessary for the administration or enforcement of this chapter.
(Ord. 99, passed 6-3-2009)

5.24.040 License issuance or renewal; standards.

(a) No license (including any renewal) may issue to authorize tobacco retailing at other than a fixed location, i.e. no license shall issue for tobacco retailing by persons on foot or from a vehicle of any kind.

(b) Upon the receipt of an application (including a renewal) for a tobacco retailer's license and the license fee therefor, the City or its designee shall issue a license or renewal unless substantial record evidence demonstrates that one of the following bases for denial exists:

(1) The application is incomplete or inaccurate.

(2) The application seeks authorization for tobacco retailing at a location for which a prohibition on issuing licenses is in effect pursuant to this chapter. However, this subsection shall not constitute a basis for denial of a license if the applicant provides the City with documentation demonstrating that the applicant has acquired or is acquiring the location or business in an arm's length transaction.

(3) The application seeks authorization for tobacco retailing for a proprietor for which a prohibition on issuing licenses is in effect pursuant to this chapter.

(4) The application seeks authorization for tobacco retailing that is prohibited pursuant to this chapter, that is unlawful pursuant to any other City ordinance, or that is unlawful pursuant to any other local, State, or Federal law.
(Ord. 99, passed 6-3-2009)

5.24.050 License non-transferable.

(a) A tobacco retailer's license (including a renewal license) is nontransferable. If the information required in the license application changes, a new tobacco retailer's license is required before the business may continue to act as a tobacco retailer. For example, if a proprietor to whom a license has been issued changes business location, that proprietor must apply

for a new license prior to acting as a tobacco retailer at the new location. Or if the business is sold, the new owner must apply for a license for that location before acting as a tobacco retailer.

(b) Notwithstanding, any other provision of this chapter, violations accumulated against a location or business shall continue to be counted against the location or business unless the location or business has been transferred to a new proprietor and the new proprietor provides the City with documentation demonstrating by clear and convincing evidence that the new proprietor has acquired or is acquiring the location or business in an arm's length transaction.
(Ord. 99, passed 6-3-2009)

5.24.060 License term, renewal and reinstatement after expiration; fees.

(a) *Term.* The term of a tobacco retailer license is one year from the date of issuance or renewal. A tobacco retailer's license is invalid unless the appropriate fee has been paid in full and the term of the license has not expired.

(b) *Renewal.* Each tobacco retailer shall apply for the renewal of his or her tobacco retailer's license no later than 30 days prior to expiration of the term.

(c) *Reinstatement after expiration.* A tobacco retailer's license that is not timely renewed shall expire at the end of its term. To reinstate a license that has expired due to the failure to renew, the proprietor shall submit the renewal fee plus a reinstatement fee of 10% of the renewal fee and submit a signed declaration stating the reason for the failure to renew the license in a timely manner. Unless the proprietor can show that he has not sold any tobacco product or tobacco paraphernalia during any period that the license was expired, the proprietor may be subject to additional penalties for violation of this chapter.

(d) *Fees.* The fees applicable to this chapter shall be determined by resolution of the City Council. Reinstatement fee shall be at least 10% of renewal fee.
(Ord. 99, passed 6-3-2009)

5.24.070 Other licensing requirements and prohibitions.

(a) *Display of license.* Each license shall be prominently displayed in a publicly visible location at the licensed location in such a manner and size that it may be easily read.

(b) *Positive identification required.* If the purchaser reasonably appears to be under the age of 30, the person engaging in tobacco retailing shall examine the identification of the purchaser to confirm that the proposed sale is to a purchaser who is at least the minimum age under State law for purchasing the tobacco product or tobacco paraphernalia.

(c) *Minimum age for persons selling tobacco.* No person shall engage in tobacco retailing if the person is younger than the minimum age under State law for being sold or for possessing any tobacco product.

(d) *Self-service displays prohibited.* No person shall display tobacco products or tobacco paraphernalia by means of a self-service display or engage in tobacco retailing by means of a self-service display. A tobacco retailer who chooses to display tobacco products or tobacco paraphernalia in a locked cabinet, case or similar structure shall post a clear and conspicuous sign on or within five feet of the display stating that the cabinet, case or structure is locked at all times and must keep the cabinet locked when not removing products for sale, restocking, or cleaning or maintaining the cabinet.

(e) *Violation of tobacco-related laws.* It shall be a violation of a tobacco retailer's license for a licensee, including his or her agent or employee, to violate any local, State, or Federal tobacco-related law, including but not limited to those regarding signage or those restricting the age of purchase for any product. (Ord. 99, passed 6-3-2009)

5.24.080 Compliance monitoring.

(a) Compliance with this chapter shall be monitored by the City or its designee. Any peace officer may enforce the provisions of this chapter.

(b) Notwithstanding, neither the City nor its designee shall not enforce any tobacco-related minimum-age law against a person who otherwise might be in violation of such law because of the person's age (the youth decoy) if the potential violation occurs when:

(1) The youth decoy is participating in a compliance check supervised by a peace officer or a code enforcement official; or

(2) The youth decoy is participating in a compliance check funded in part, either directly or indirectly through sub-contracting, by the City, the Department, the California Department of Health Services or a law enforcement agency. (Ord. 99, passed 6-3-2009)

5.24.090 Revocation of license.

(a) *Revocation of license for violation.*

(1) In addition to any other penalty authorized by law, a tobacco retailer's license may be revoked if the City or its designee finds, after the licensee is afforded notice and an opportunity to be heard as provided in Section 2.01.100 of this Code or pursuant to substantially equivalent procedures delegated to the County, that the licensee, or any of the licensee's agents or employees, has violated any of the requirements, conditions or prohibitions of this chapter or has otherwise admitted to a violation of this chapter.

(2) For a first or second alleged violation within any five-year period, and in order to avoid a hearing, the City or its designee is authorized to enter into a settlement with the proprietor without additional consent of the City Counsel, which settlement shall not be confidential and which shall contain the following minimum terms:

A. After an alleged first license violation at a location within any 60-month period:

1. An agreement to stop acting as a tobacco retailer for at least one business day;

Canyon Lake - Business Regulations

2. An administrative cost/settlement payment to the City or its designee of at least \$1,000; and

3. A stipulation that the alleged violation may be counted when considering what penalty will be assessed for any future violations.

B. After an alleged second license violation at a location within any 60-month period:

1. An agreement to stop acting as a tobacco retailer for at least ten business days;

2. An administrative settlement payment to the City of at least \$5,000; and

3. A stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.

(b) *New license after revocation for violation.*

(1) After a first license violation at a location within any 60-month period, no new license may issue for the location until ten days have passed from the date of the last revocation or violation, whichever is later.

(2) After a second license violation at a location within any 60-month period, no new license may issue for the location until 30 days have passed from the date of the last revocation or violation, whichever is later.

(3) After of a third license violation at a location within any 60-month period, no new license may issue for the location until 90 days have passed from the date of the last revocation or violation, whichever is later.

(4) After four or more license violations at a location within any 60-month period, no new license may issue, for the location until five years have passed from the date of the last revocation or violation, whichever is later.

(c) *Revocation of license issued in error.*

A tobacco retailer's license shall be revoked if the Department finds, after notice and opportunity to be heard, that one or more of the bases for denial of a license under this chapter existed at the time application was made or at any time before the license issued. The revocation shall be without prejudice to the filing of a new application for a license.

(d) *No contest plea.* To the extent allowed by law, a plea of "no contest" or its equivalent by a tobacco retailer for a violation of any law designated in subsection (a) above shall operate as an admission that this chapter has been violated for the purposes of license revocation.

(Ord. 99, passed 6-3-2009)

5.24.100 Enforcement.

The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

(a) Whenever evidence of a violation of this chapter is obtained in part through the participation of a person under the age of 18 years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this chapter and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

(b) Violations of this chapter may be enforced pursuant to Chapter 11.25 of this Code providing for administrative citations and fines. Violations of this chapter also may be subject to a civil action brought by the District Attorney's office with the consent of the City. In the event of such enforcement, the administrative fines levied or penalties sought at a minimum shall be:

(1) A fine not less than \$250 and not exceeding \$1,000 for a first violation in any 60-month period;

(2) A fine not less than \$1,500 and not exceeding \$2,500 for a second violation in any 60-month period; or

(3) A fine not less than \$3,000 and not exceeding \$10,000 for a third or subsequent violation in any 60-month period.

(c) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall constitute a violation.

(d) Violations of this chapter are hereby declared to be public nuisances.
(Ord. 99, passed 6-3-2009)

CHAPTER 5.45: LICENSING OF MASSAGE BUSINESSES AND ESTABLISHMENTS

Section

- 5.45.010 Definitions.
- 5.45.020 Massage therapy license required.
- 5.45.030 Exemptions from Chapter.
- 5.45.040 Licensing of massage business or establishment.
- 5.45.050 Hours of operation.
- 5.45.060 Minors.
- 5.45.070 Physical facility and Building Code requirements.
- 5.45.080 Health and safety requirements.
- 5.45.090 Attire and physical hygiene requirements.
- 5.45.100 Inspection by government officials.
- 5.45.110 Owner and operator responsibility; denial, revocation, restriction or suspension of business license.
- 5.45.120 Remedies cumulative; each day a separate offense.
- 5.45.130 Public nuisance.
- 5.45.140 Criminal penalties.
- 5.45.150 Civil injunction.
- 5.45.160 Administrative fines and costs.
- 5.45.170 Authorization to verify.

pursuant to subdivision (b) of Section 4601 of the California Business and Professions Code or subdivision (a) or (c) of Section 4604 of the California Business and Professions Code.

(c) “Compensation” means the payment, loan, advance, donation, contribution, deposit, exchange, or gift of money or anything of value.

(d) “Employed or retained by” shall include:

(1) Any person who is a directly paid employee of a massage business or establishment;

(2) Any person whose association with a massage business or establishment is that of an independent contractor who receives compensation for massage therapy provided to patrons of the massage business or establishment; and

(3) Any person who receives a referral of patrons from a massage business or establishment and who at any time before or after the referral arranges in any way for compensation to flow to the massage business or establishment or any of its owners (regardless of whether the parties involved acknowledge that compensation is flowing in exchange for the referral, or such parties record such compensation in their financial records).

5.45.010 Definitions.

(a) “California Massage Therapy Council” means the California Massage Therapy Council (“CMTC”) is the organization responsible for facilitating and implementing Chapter 10.5 (commencing with Section 4600) of Division 2 of the California Business and Professions Code, affecting massage therapists in California.

(b) “CMTC Certificate” means the certificate issued by the California Massage Therapy Council to massage therapists pursuant to subdivision (c) of Section 4601 of the California Business and Professions Code, and to massage practitioners

(e) “Massage, massage therapy, bodywork” are used in this Chapter interchangeably and shall mean the application of various techniques to the muscular structure and soft tissues of the human body, including but not limited to: any method of pressure or friction against or stroking, kneading, rubbing, tapping, compression, pounding, vibrating, rocking or stimulating of the external surfaces of the body with hands or with any object or appliance. The terms “massage,” “massage therapy,” and “bodywork,” specifically exclude the diagnosis, prescription, intentional manipulation or adjustments of the skeletal

structure, or any other service, procedure or therapy which requires a license to practice (e.g., chiropractic, osteopathy, orthopedics, physical therapy, podiatry, or medicine), hypnosis, naturopathic, colonic irrigation, acupuncture, vacuum cupping, nutritional or dietary counseling, detoxification programs, yoga, exercise, Vichy showers and spiritual healing.

(f) “Massage business or establishment” means any sole proprietorship, business or establishment which offers massage therapy in exchange for compensation, whether at a fixed place of business or at a location designated by the patron. Any business or establishment which offers any combination of massage therapy and bath facilities, including but not limited to, showers, baths, wet and dry heat rooms, pools and hot tubs, shall be deemed a massage business or establishment under this Chapter. For purposes of this Chapter, “massage business or establishment” includes “acupressure” or “day spa” establishments.

(g) “Massage therapist” means any person to whom a CMTC Certificate has been issued pursuant to subdivisions (b) or (c) of Section 4601 or subdivisions (a) or (c) of Section 4604 of the California Business and Professions Code and who is engaged in the practice of massage therapy for compensation. As used in this Chapter, the terms “bodyworker,” “bodywork therapist,” or “massage and bodywork therapist,” or “massage practitioner” shall have the same meaning as “massage therapist.”

(h) “Person” means any individual, proprietorship, partnership, corporation, firm, association, joint stock company, or combination of the above in whatever form or character.

(i) “Recognized school of massage” means a facility that teaches the theory, ethics, practice, profession and work of massage therapy and that is approved by the California Massage Therapy Council (“CMTC”). The term “recognized school of massage” shall not include a school or institution of learning offering or allowing correspondence course credit not requiring actual attendance at class. The City shall have the right to confirm that all sole practitioners and massage therapists and practitioners employed by a

massage business or establishment actually attended class at a recognized school of massage. (Ord. 127, passed 2-3-2009)

5.45.020 Massage therapy license required.

Except where a specific exemption is applicable pursuant to this Chapter, it is a violation of this Chapter for any person to engage in the practice of massage therapy and for any massage business or establishment to employ or retain such a person, unless such person first obtains and continues to maintain in full force and effect a valid CMTC Certificate. (Ord. 127, passed 2-3-2009)

5.45.030 Exemptions from Chapter.

Unless otherwise specified, this Chapter shall not apply to:

(a) Persons holding a valid certificate to practice the healing arts under the laws of the State of California including, but not limited to, holders of medical degrees such as physicians, surgeons, chiropractors, osteopaths, naturopaths, podiatrists, acupuncturists, physical therapists, registered nurses and licensed vocational nurses;

(b) State-licensed hospitals, nursing homes, sanitariums, physiotherapy establishments, or other State-licensed physical or mental health facilities and their employees;

(c) Recognized schools of massage and their students in training, provided such students provide massage therapy only under the direct personal supervision of an instructor;

(d) Barbers and cosmetologists who are licensed under the laws of the State of California while providing massage therapy within the scope of their licenses, provided that such massage therapy is limited solely to the neck, face, scalp, feet and lower limbs up to the knees, and hands and arms, of their patrons; and

(e) Persons who provide massage therapy to amateur, semi-professional or professional athletes or athletic teams, facilities or events, so long as such persons do not practice massage therapy as their primary occupation in the City of Canyon Lake. (Ord. 127, passed 2-3-2009)

5.45.040 Licensing of massage business or establishment.

Every massage business or establishment applying for a City business license pursuant to Chapter 5.01 shall meet the requirements of this Chapter before such business license may be issued, and shall continue to meet such requirements or be subject to suspension or revocation of such license. Every massage business or establishment shall:

(a) Provide the City Clerk or her designee with a copy of the CMTC Certificate of every person who is employed or retained by the massage business or establishment to provide massage therapy, within 30 calendar days of the commencement of such person's period of employment;

(b) Maintain on its premises a copy or other evidence of each such CMTC Certificate for review by City representatives; and

(c) Apply for a new business license in the event that the massage business or establishment changes names, management or transfers the business to another person. (Ord. 127, passed 2-3-2009)

5.45.050 Hours of operation.

No massage business or establishment shall provide massage therapy to the public for compensation between the hours of 10:00 p.m. and 7:00 a.m. of the following day. (Ord. 127, passed 2-3-2009)

5.45.060 Minors.

It shall be unlawful for any massage business or establishment, and for any massage business or establishment to:

(a) Employ or retain any person who is under the age of 18 years to provide any massage therapy to the public for compensation; or

(b) Provide massage therapy to any person who is under the age of 18 years, except at the special instance and request of a parent or other person in lawful custody of the minor. (Ord. 127, passed 2-3-2009)

5.45.070 Physical facility and Building Code requirements.

The following physical facility requirements shall be applicable to all massage businesses or establishments:

(a) All doors to dressing rooms, toilet rooms and massage therapy rooms or cubicles shall open inward and shall be self-closing. Draw drapes, curtain enclosures, or accordion-pleated closures in lieu of doors are acceptable on all inner dressing rooms and massage therapy rooms or cubicles.

(b) Minimum lighting equivalent to at least one 40-watt light shall be provided in each massage therapy room or cubicle.

(c) A massage table shall be used for all massage therapy, with the exception of AThai,@ AShiatsu,@ and similar forms of massage therapy, which may be provided on a padded mat on the floor, provided the patron is fully attired in loose clothing, pajamas, scrubs or similar style of garment. The tables should have a minimum height of 28 inches. Beds, floor mattresses and waterbeds are not permitted on the premises of the massage business or establishment.

Canyon Lake - Business Regulations

(d) All locker facilities, if any, that are provided for the use of patrons shall be fully secured for the protection of the patron's valuables, and the patron shall be given control of the key or other means of access.

(e) The massage business or establishment shall comply with all local and State building standards applicable to other professional and personal services businesses, including, but not limited to, the following:

(1) Have a system of adequate ventilation in accordance with the provisions of Section 705 of the Uniform Building Code of 1982, as referenced in Part 2, Chapter 7 of the matrix adoption tables, of Title 24 of the California Code of Regulations.

(2) Have a supply of hot and cold running water in accordance with Part 5, Section 1001(d)(1), of Title 24 of the California Code of Regulations.

(3) Have a supply of potable drinking water in accordance with Part 5, Section 1001(d)(3), of Title 24 of the California Code of Regulations.

(4) Provide hand washing facilities in accordance with Part 5, Section 1001(d)(2), of Title 24 of the California Code of Regulations.

(5) Provide public toilet rooms in accordance with Part 5, Sections 910(b) and 910(c), and Table No. C-1, of Title 24 of the California Code of Regulations.

(Ord. 127, passed 2-3-2009)

5.45.080 Health and safety requirements.

The following health and safety requirements shall be applicable to all massage businesses or establishments:

(a) The massage business or establishment shall at all times be equipped with an adequate supply of clean sanitary towels, coverings and linens, all massage tables shall be covered with a clean sheet or other clean covering for each patron. After a towel, covering or linen has once been used it shall be deposited in a

closed receptacle and not used until properly laundered and sanitized. Towels, coverings and linens shall be laundered either by regular commercial laundering or by a noncommercial laundering process which includes immersion in water at least 140°F for not less than 15 minutes during the washing or rinsing operation. Clean towels, coverings and linens shall be stored in closed, clean cabinets when not in use.

(b) All massage therapy rooms or cubicles, wet and dry heat rooms, toilet rooms, shower compartments, and hot tubs and pools shall be thoroughly cleaned and disinfected as needed, and at least once each business day the premises are open and such facilities are in use. All bathtubs shall be thoroughly cleaned and disinfected after each use.

(c) All liquids, creams, or other preparations used on or made available to patrons shall be kept in clean and closed containers. Powders may be kept in clean shakers. All bottles and containers shall be distinctly and correctly labeled to disclose their contents. When only a portion of a liquid, cream or other preparation is to be used or made available to a patron, it shall be removed from the container in such a way as not to contaminate the remaining portion.

(d) All bathrobes, bathing suits and other garments that are provided for the use of patrons shall be either fully disposable and shall not be used by more than one patron, or shall be laundered after each use pursuant to division (a) of this section.

(e) All combs, brushes, and or other personal items of grooming or hygiene that are provided for the use of patrons shall be either fully disposable and shall not be used by more than one patron, or shall be fully disinfected after each use.

(f) No patrons shall be allowed to use any shower facilities of the massage business or establishment unless such patrons are offered slip-resistant sandals or flip-flops while in the shower compartment. All footwear such as sandals or flip-flops that are provided for the use of patrons shall be either fully disposable and shall not be used by more than one patron, or shall be fully disinfected after each use.

(g) The patron's genitals, pubic area, anus, gluteal fold, and female patron's breasts below a point immediately above the top of the areola must be fully draped at all times while any employee of the massage business or establishment is in the massage therapy room or cubicle with the patron. No massage therapy shall be provided to a patron that results in intentional contact, or occasional and repetitive contact with the genitals, anus, gluteal fold, or areola of a patron. (Ord. 127, passed 2-3-2009)

5.45.090 Attire and physical hygiene requirements.

The following attire and physical hygiene requirements shall be applicable to all massage therapists and massage practitioners who are employed or retained by a massage business or establishment or are sole practitioners within the municipal boundaries of the City of Canyon Lake:

(a) All persons shall be clean and wear clean and sanitary outer garments at all times. All outer garments shall be of a fully opaque, nontransparent material and provide complete covering from at least the mid thigh to two inches below the collarbone. The midriff may not be exposed.

(b) All persons shall thoroughly wash their hands with soap and water or any equally effective cleansing agent immediately before providing massage therapy to a patron. No massage therapy shall be provided upon a surface of the skin or scalp of a patron where such skin is inflamed, broken (e.g., abraded, cut) or where a skin infection or eruption is present.

(c) No person afflicted with an infection or parasitic infestation capable of being transmitted to a patron shall knowingly provide massage therapy to a patron, or remain on the premises of a massage business or establishment while so infected or infested. Infections or parasitic infestations capable of being transmitted to a patron include, but are not limited to: (1) cold, influenza or other respiratory illness accompanied by a fever, until 24 hours after resolution of the fever or otherwise as provided by public health officials; (2) streptococcal pharyngitis ("strep throat"),

until 24 hours after treatment has been initiated and 24 hours after resolution of fever; (3) purulent conjunctivitis ("pink eye"), until examined by a physician and approved for return to work; (4) pertussis ("whooping cough"), until five days of antibiotic therapy has been completed; (5) varicella ("chicken pox"), until the sixth day after onset of rash or sooner if all lesions have dried and crusted; (6) mumps, until nine days after onset of paratid gland swelling; (7) tuberculosis, until a physician or local health department authority states that the person is noninfectious; (8) impetigo (bacterial skin infection), until 24 hours after treatment has begun; (9) pediculosis (head lice), until the morning after first treatment; and (10) scabies ("crabs"), until after treatment has been completed. Blood-borne diseases, such as HIV/AIDS and hepatitis B (HBV), shall not be considered infectious or communicable diseases for the purpose of this paragraph. (Ord. 127, passed 2-3-2009)

5.45.100 Inspection by government officials.

(a) All massage businesses or establishments, as a condition of their business licenses, shall permit representatives of the City, Riverside County Health Department, Police Department, or Fire Department, to conduct reasonable inspections of all areas during the regular business hours of the massage business or establishment, for the purpose of verifying CMTC certificates and ensuring compliance with State and local law, including, but not limited to, Chapter 10.5 (commencing with Section 4600) of the California Business and Professions Code, City zoning requirements, City Building Code requirements, the requirements delineated in this Chapter, or other applicable fire and health and safety requirements.

(b) Nothing in this section shall be deemed to prohibit the above-described government officials from pursuing any and all available legal remedies to secure entry into and reasonable inspection of the premises of the massage business or establishment if such entry is refused.

(c) It is a violation of this Chapter for the massage business or establishment to prohibit or

interfere with such lawful inspection of the premises at any time it is open for business.
(Ord. 127, passed 2-3-2009)

5.45.110 Owner and operator responsibility; denial, revocation, restriction or suspension of business license.

The following provisions shall apply to all massage businesses or establishments:

(a) For the purpose of enforcement of the requirements of this Chapter, all owners and operators of the massage business or establishment shall be responsible for the conduct of all of its employees, agents, independent contractors or other representatives, while on the premises of the massage business or establishment or providing massage therapy.

(b) Notwithstanding the provisions of Chapter 10.5 (commencing with Section 4600) of Division 2 of the California Business and Professions Code, the City, or its authorized agent, may:

(1) Require the massage business or establishment in its application for a business license, or for the renewal of a business license, to provide information relevant to the activities of the massage business or establishment regulated by this Chapter;

(2) Make reasonable investigations into the information provided in the application for a business license;

(3) Verify the CMTC Certificates of the massage therapists and practitioners employed by the massage business or establishment;

(4) Conduct reasonable safety and health inspections of the massage business or establishment;

(5) Charge a business licensing fee sufficient to cover the costs of the business licensing activities regulated by this Chapter; and

(6) Deny, revoke, restrict or suspend a business license for the following causes: (a) an

employee, agent, independent contractor or other representative of the massage business or establishment has committed a violation of this Chapter, or of Chapter 10.5 (commencing with Section 4600) of Division 2 of the California Business or Professions Code; (b) the massage business or establishment has provided materially false information in its application for a business license; (c) any other reason allowed by law.
(Ord. 127, passed 2-3-2009)

5.45.120 Remedies cumulative; each day a separate offense.

Any person subject to this Chapter who personally, or through an agent, employee, independent contractor or other representative, violates any provision of this Chapter shall be guilty of a separate offense for each and every day during any portion of which any such violation is committed, continued or permitted by such person. All remedies provided herein shall be cumulative and not exclusive.
(Ord. 127, passed 2-3-2009)

5.45.130 Public nuisance.

Any massage establishment or business operated, conducted or maintained contrary to the provisions of this Chapter shall be, and the same is declared to be, unlawful and a public nuisance, and the City may, in addition to or in lieu of prosecuting a criminal or administrative action hereunder, commence an action or actions, proceeding or proceedings for the abatement, removal or enjoinder thereof, in the manner provided by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such massage establishments or businesses and restrain and enjoin any person from operating, conducting or maintaining a massage establishment or business contrary to the provisions of this Chapter.
(Ord. 127, passed 2-3-2009)

5.45.140 Criminal penalties.

Any person subject to this Chapter who personally, or through an agent, employee, independent

contractor or other representative violates any provision of this Chapter commits a misdemeanor. Any person convicted of a misdemeanor shall be subject to punishment by fine and or imprisonment to the maximum extent permitted by California State law. (Ord. 127, passed 2-3-2009)

5.45.150 Civil injunction.

The violation of any provision of this Chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of the City, create a cause for injunctive relief. (Ord. 127, passed 2-3-2009)

5.45.160 Administrative fines and costs.

In addition to the remedies set forth above, any person subject to this Chapter who personally, or through an agent, employee, independent contractor or other representative, violates any provision of this Chapter may be administratively cited. (Ord. 127, passed 2-3-2009)

5.45.170 Authorization to verify.

By engaging in the practice of massage therapy within the borders of the City of Canyon Lake, and applying for a business license or renewal of a business license, each massage business or establishment endorses the provisions of this Chapter, agrees to cooperate with the City regarding such provisions and provides authorization for the City, its agents and employees, and the County of Riverside, its agents and employees, to verify all information requested in the massage business' or establishment's business license application or renewal and to engage in reasonable investigations associated with the City's effort to enforce the provisions of this Chapter. Such activities may include, but are not limited to, requesting appropriate information from the California Massage Therapy Council. (Ord. 127, passed 2-3-2009)

