



AGENDA
CITY COUNCIL/SUCCESSOR AGENCY/STANTON HOUSING AUTHORITY
JOINT REGULAR MEETING
STANTON CITY HALL, 7800 KATELLA AVENUE, STANTON, CA
TUESDAY, JANUARY 13, 2015 - 6:30 P.M.

As a courtesy to those in attendance, the City of Stanton respectfully requests that all cell phones, pagers and/or electronic devices be turned off or placed on silent mode while the meeting is in session. Thank you for your cooperation

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, CONTACT THE CITY CLERK AT (714) 379-9222. NOTIFICATION BY 9:00 A.M. ON MONDAY, JANUARY 12, 2015 WILL ENABLE THE CITY TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING.

Supporting, descriptive documentation for agenda items, including staff reports, is available for review in the City Clerk's Office and on the City web site at www.ci.stanton.ca.us.

1. **CLOSED SESSION / CLOSED SESSION (6:00 P.M.)**
2. **ROLL CALL** Agency Member Ramirez
Agency Member Shawver
Agency Member Warren
Vice Chairman Donahue
Chairman Ethans
3. **PUBLIC COMMENT ON CLOSED SESSION ITEMS**

Closed Session may convene to consider matters of purchase / sale of real property (G.C. §54956.8), pending litigation (G.C. §54956.9(a)), potential litigation (G.C. §54956.9(b)) or personnel items (G.C. §54957.6). Records not available for public inspection.

4. CLOSED SESSION

**4A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR
(Pursuant to Government Code Section 54956.8)**

Property: Generally located at the Northeast corner of Beach Boulevard and Orangewood Avenue in the City of Stanton, California consisting of eleven (11) contiguous and adjacent parcels (APNs 131-691-49, 131-691-50, 131-691-51, 131-691-58, 131-691-59, 131-691-60, 131-691-61, 131-691-62, 131-691-63, 131-691-64, and 131-691-65)

Negotiating Parties: James A. Box, Executive Director, Successor Agency to the Redevelopment Agency for the City of Stanton, Owner

Under Negotiation: Instruction to negotiator will concern price and terms of payment.

5. CALL TO ORDER / REGULAR CITY COUNCIL / SUCCESSOR AGENCY / STANTON HOUSING AUTHORITY MEETING (6:30 P.M.)

6. ROLL CALL Council/Authority Member Ramirez
Council/Authority Member Shawver
Council/Authority Member Warren
Mayor Pro Tem/Vice Chairman Donahue
Mayor/Chairman Ethans

7. PLEDGE OF ALLEGIANCE

8. SPECIAL PRESENTATIONS AND AWARDS

1. Presentation of Proclamation declaring Red Shirt Thursday in the City of Stanton.
2. Presentation of Certificate of Recognition honoring Mr. John Doogan as Veteran of the Month for the month of January 2015.

9. CONSENT CALENDAR

All items on the Consent Calendar may be acted on simultaneously, unless a Council/Board Member requests separate discussion and/or action.

CONSENT CALENDAR

9A. MOTION TO APPROVE THE READING BY TITLE OF ALL ORDINANCES AND RESOLUTIONS. SAID ORDINANCES AND RESOLUTIONS THAT APPEAR ON THE PUBLIC AGENDA SHALL BE READ BY TITLE ONLY AND FURTHER READING WAIVED

RECOMMENDED ACTION:

City Council/Agency Board waive reading of Ordinances and Resolutions.

9B. APPROVAL OF WARRANTS

City Council approve demand warrants dated, December 3, December 11, December 18, 2014 and January 13, 2015, in the amount of \$1,230,557.59.

9C. APPROVAL OF MINUTES

City Council/Agency/Authority Board approve Minutes of Special Joint Meeting – December 8, 2014.

9D. NOVEMBER 2014 INVESTMENT REPORT

The Investment Report as of November 30, 2014 has been prepared in accordance with the City's Investment Policy and California Government Code Section 53646.

RECOMMENDED ACTION:

City Council receive and file the Investment Report for the month of November 2014.

9E. NOVEMBER 2014 INVESTMENT REPORT (SUCCESSOR AGENCY)

The Investment Report as of November 30, 2014 has been prepared in accordance with the City's Investment Policy and California Government Code Section 53646.

RECOMMENDED ACTION:

Successor Agency receive and file the Investment Report for the month of November 2014.

9F. MAYOR'S APPOINTMENTS OF COUNCIL MEMBERS AS REPRESENTATIVES TO VARIOUS BOARDS, COMMISSIONS, COMMITTEES AND AGENCIES

Traditionally, Council Members have been appointed by the Mayor to serve on numerous outside committees, boards, commissions and agencies. Each appointee is responsible for representing the City and voting on behalf of the City Council. The Mayor has conducted a review and has selected appointees, as detailed in Attachment 1. With the exception of the Orange County Fire Authority ("OCFA") appointment, which is required to be made by Resolution, the Mayor may otherwise make appointments to each committee, board, commission or agency by nomination and Minute Order confirmation. In addition, the Fair Political Practices Commission ("FPPC") regulations require the adoption and posting of Form 806, Agency Report of Public Official Appointments, in order for individual Council Members to participate in a City Council vote that would result in him or her serving in a position that provides compensation of \$250 or more in any 12-month period.

RECOMMENDED ACTION:

1. City Council confirm the Mayor's appointments; and
2. Approve FPPC Form 806 and authorize the City Clerk to post the form on the City's website.

9G. APPROVAL OF RESOLUTION NO. 2015-03

Consider approval of Resolution No. 2015-03 entitled:

"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA AUTHORIZING THE CITY MANAGER TO ACCEPT THE ALLOCATION OF FUNDS FROM THE BOARD OF STATE AND COMMUNITY CORRECTIONS THROUGH THE CALIFORNIA GANG REDUCTION INTERVENTION PARTNERSHIP (CAL GRIP) PROGRAM AND TO EXECUTE GRANT AGREEMENTS AND ANY AMENDMENTS THERETO TO SECURE SUCH CAL GRIP GRANT FUNDING FROM THE BOARD OF STATE AND COMMUNITY CORRECTIONS."

RECOMMENDED ACTION:

City Council approve Resolution No. 2015-03.

9H. AWARD OF CONSTRUCTION CONTRACT FOR THE LEXINGTON LIFT STATION REMOVAL PROJECT BY THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA

The bid for the Lexington Sewer Lift Station Removal Project was opened on December 18, 2014. Based on the post-bid analysis of the single bid received, staff recommends the bid submitted by S.E. Nelson Construction, Inc. to be responsible and responsive.

The cost for completing the Lexington Sewer Lift Station Removal Project is estimated at \$61,513.00, which includes a 10-percent contingency.

RECOMMENDED ACTION:

1. City Council approve the plans and specifications for the Lexington Sewer Lift Station Removal Project; and
2. Award a construction contract for the Lexington Sewer Lift Station Removal Project to the lowest responsible bidder, S.E. Nelson Construction, Inc., for the amount of \$55,913.00; and
3. Authorize the City Manager to bind the City of Stanton and S.E. Nelson Construction, Inc. in a contract for the construction of the Lexington Lift Station Removal Project; and
4. Declare this project to be categorically exempt under the California Environmental Quality Act, Class 1, Section 15301c; and
5. Authorize the City Manager to approve contract changes, not to exceed 10-percent.

9I. BOARD OF EQUALIZATION AGREEMENTS

In order for the State Board of Equalization (BOE) to administer and enforce the transactions and use tax (Measure GG) for the City, agreements authorizing the BOE to carry out the provisions of the Revenue and Taxation Code and the Ordinance need to be approved by City Council.

RECOMMENDED ACTION:

1. City Council find that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
2. Adopt Resolution No. 2015-04 authorizing the City Manager to execute agreements with the State Board of Equalization for implementation of a local transactions and use tax.

END OF CONSENT CALENDAR

10. PUBLIC HEARINGS

10A. A PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE STANTON MUNICIPAL CODE AND ZONING CODE PERTAINING TO THE REGULATION OF MASSAGE ESTABLISHMENTS AS AN URGENCY ORDINANCE

Pursuant to the recently enacted State Assembly Bill 1147, the City proposes to establish new land use and licensing regulations regarding massage establishments in the City. Specifically, an urgency ordinance is proposed to amend portions of Title 5 (Business Licensing and Regulations) and Title 20 (Zoning) to immediately establish new permitting and licensing requirements, operational, sanitation, and attire regulations, and an amortization schedule for existing massage businesses to come into compliance with the new regulations.

RECOMMENDED ACTION:

1. City Council conduct a public hearing; and
2. Declare that the projects are exempt from CEQA under Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly); and
3. Adopt Ordinance No. 1031, entitled:

"AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, AMENDING CHAPTER 5.16, ARTICLE I (MASSAGE ESTABLISHMENTS), SECTION 20.215.020 (COMMERCIAL ZONES), SECTION 20.320.030 (OFF-STREET PARKING), SECTION 20.400.190 (MASSAGE ESTABLISHMENTS) AND SECTION 20.620.060 (NONCONFORMING USES) OF THE STANTON MUNICIPAL CODE AND DELETING CHAPTER 5.16, ARTICLE II (MASSAGE TECHNICIANS) FROM THE STANTON MUNICIPAL CODE."

ROLL CALL VOTE: Council Member Ramirez
 Council Member Shawver
 Council Member Warren
 Mayor Pro Tem Donahue
 Mayor Ethans

10B. A PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE STANTON MUNICIPAL CODE AND ZONING CODE PERTAINING TO THE REGULATION OF MASSAGE ESTABLISHMENTS

Pursuant to the recently enacted State Assembly Bill 1147, the City proposes to establish new land use and licensing regulations regarding massage establishments in the City. Specifically, an ordinance is proposed to amend portions of Title 5 (Business Licensing and Regulations) and Title 20 (Zoning) to establish new permitting and licensing requirements, operational, sanitation, and attire regulations, and an amortization schedule for existing massage businesses to come into compliance with the new regulations.

RECOMMENDED ACTION:

1. City Council conduct a public hearing; and
2. Declare that the projects are exempt from CEQA under Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly); and
3. Introduce Ordinance No. 1032, entitled:

“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, AMENDING CHAPTER 5.16, ARTICLE I (MASSAGE ESTABLISHMENTS), SECTION 20.215.020 (COMMERCIAL ZONES), SECTION 20.320.030 (OFF-STREET PARKING), SECTION 20.400.190 (MASSAGE ESTABLISHMENTS) AND SECTION 20.620.060 (NONCONFORMING USES) OF THE STANTON MUNICIPAL CODE AND DELETING CHAPTER 5.16, ARTICLE II (MASSAGE TECHNICIANS) FROM THE STANTON MUNICIPAL CODES”; and

4. Set said ordinance for adoption at the regular City Council meeting of January 27, 2015.

ROLL CALL VOTE: Council Member Ramirez
 Council Member Shawver
 Council Member Warren
 Mayor Pro Tem Donahue
 Mayor Ethans

11. UNFINISHED BUSINESS None.

12. NEW BUSINESS None.

13. ORAL COMMUNICATIONS - PUBLIC

At this time members of the public may address the City Council/Successor Agency/Stanton Housing Authority regarding any items within the subject matter jurisdiction of the City Council/Successor Agency/Stanton Housing Authority, provided that NO action may be taken on non-agenda items.

- Members of the public wishing to address the Council/Agency/Authority during Oral Communications-Public or on a particular item are requested to fill out a REQUEST TO SPEAK form and submit it to the City Clerk. Request to speak forms must be turned in prior to Oral Communications-Public.
- When the Mayor/Chairman calls you to the microphone, please state your Name, slowly and clearly, for the record. A speaker's comments shall be limited to a three (3) minute aggregate time period on Oral Communications and Agenda Items. Speakers are then to return to their seats and no further comments will be permitted.
- Remarks from those seated or standing in the back of chambers will not be permitted. All those wishing to speak including Council/Agency/Authority and Staff need to be recognized by the Mayor/Chairman before speaking.

14. WRITTEN COMMUNICATIONS None.

15. MAYOR/CHAIRMAN COUNCIL/AGENCY/AUTHORITY INITIATED BUSINESS

15A. COMMITTEE REPORTS/ COUNCIL/AGENCY/AUTHORITY ANNOUNCEMENTS

At this time Council/Agency/Authority Members may report on items not specifically described on the agenda which are of interest to the community provided no discussion or action may be taken except to provide staff direction to report back or to place the item on a future agenda.

15B. COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE MEETING

At this time Council/Agency/Authority Members may place an item on a future agenda.

CC/SA/SHA AGENDA – Joint Regular Meeting – January 13, 2015 - Page 9

Any writings or documents provided to a majority of the City Council/Successor Agency/Stanton Housing Authority regarding any item on this agenda will be made available for public inspection at the Public Counter at City Hall located at 7800 Katella Avenue, Stanton CA, during normal business hours.

15C. COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE STUDY SESSION

At this time Council/Agency/Authority Members may place an item on a future study session agenda.

Currently Scheduled:

January 20, 2015:

- Strategic Planning Session

15D. COOL CALIFORNIA CITY CHALLENGE GRANT/PROGRAM

At the request of Council the following item has been agenized for discussion.

RECOMMENDED ACTION:

City Council provide direction to staff.

16. ITEMS FROM CITY ATTORNEY/AGENCY COUNSEL/AUTHORITY COUNSEL

17. ITEMS FROM CITY MANAGER/EXECUTIVE DIRECTOR

17A. ORANGE COUNTY FIRE AUTHORITY

At this time the Orange County Fire Authority will provide the City Council with an update on their current operations.

18. ADJOURNMENT

I hereby certify under penalty of perjury under the laws of the State of California, the foregoing agenda was posted at the Post Office, Stanton Community Services Center and City Hall, not less than 72 hours prior to the meeting. Dated this 8th day of January, 2015.



Patricia A. Vazquez / City Clerk/Secretary

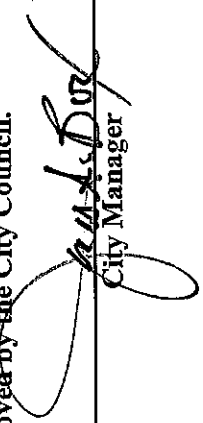
CC/SA/SHA AGENDA – Joint Regular Meeting – January 13, 2015 - Page 10

Any writings or documents provided to a majority of the City Council/Successor Agency/Stanton Housing Authority regarding any item on this agenda will be made available for public inspection at the Public Counter at City Hall located at 7800 Katella Avenue, Stanton CA, during normal business hours.

**CITY OF STANTON
ACCOUNTS PAYABLE REGISTER**

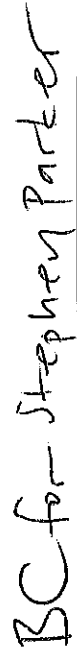
December 3, 2014	\$63,536.60
December 11, 2014	\$41,805.99
December 18, 2014	\$1,120,382.40
January 13, 2015	\$4,832.60
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">\$1,230,557.59</div>

Demands listed on the attached registers conform to the City of Stanton Annual Budget as approved by the City Council.



City Manager

Demands listed on the attached registers are accurate and funds are available for payment thereof.



Administrative Services Director

DRAFT

MINUTES OF THE CITY COUNCIL / SUCCESSOR AGENCY / HOUSING AUTHORITY OF THE CITY OF STANTON SPECIAL JOINT MEETING DECEMBER 8, 2014

1. **CLOSED SESSION** None.

2. **CALL TO ORDER**

The meetings were called to order at 6:30 p.m. by Mayor/Chairman Ramirez.

3. **PLEDGE OF ALLEGIANCE**

Led by Jared Swanson.

4. **ROLL CALL**

Present: Council/Agency/Authority Member Donahue, Council/Agency/Authority Member Shawver, Council/Agency/Authority Member Warren, Mayor Pro Tem/Vice Chairman Ethans and Mayor/Chairman Ramirez.

Absent: None.

Excused: None.

5. **SPECIAL PRESENTATIONS AND AWARDS** None.

6. **CONSENT CALENDAR**

Motion/Second: Ethans/Warren

Motion unanimously carried by the following vote:

AYES: 5 (Donahue, Ethans, Ramirez, Shawver and Warren)

NOES: None

ABSENT: None

ABSTAIN: None

The City Council/Agency Board/Authority Board unanimously approved the following Consent Calendar items:

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CONSENT CALENDAR

- 6A. MOTION TO APPROVE THE READING BY TITLE OF ALL ORDINANCES AND RESOLUTIONS. SAID ORDINANCES AND RESOLUTIONS THAT APPEAR ON THE PUBLIC AGENDA SHALL BE READ BY TITLE ONLY AND FURTHER READING WAIVED**

The City Council/Agency/Authority Board waived reading of Ordinances and Resolutions.

- 6B. APPROVAL OF WARRANTS**

The City Council approved demand warrants dated, November 20, November 26, and December 9, 2014, in the amount of \$1,178,332.85.

- 6C. APPROVAL OF MINUTES**

The City Council/Agency/Authority Board approved Minutes of Regular Joint Meeting – November 25, 2014.

- 6D. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 4, 2014 DECLARING THE RESULT AND SUCH OTHER MATTERS AS PROVIDED BY LAW**

The City Council approved Resolution No. 2014-47.

- 6E. PROCLAMATION DECLARING JANUARY 2015 AS BUSINESS APPRECIATION MONTH**

As part of an effort to recognize and celebrate the contributions local businesses make in the City, the proposed proclamation would declare the month of January 2015 as Business Appreciation Month.

The City Council approved the Proclamation declaring January 2015 as Business Appreciation Month.

DRAFT

6F. ANNUAL AUDIT REPORTS FOR FISCAL YEAR 2013-14

Attached is the Comprehensive Annual Financial Report (CAFR) for the City of Stanton for the fiscal year ended June 30, 2014. This report includes all funds and entities that are within the control of the City. The independent firm of White Nelson Diehl Evans LLP, Certified Public Accountants and Consultants, has conducted an independent audit of the financial statements of the City included in the CAFR and has issued an "unqualified" opinion thereon.

Four additional reports and letters required by governmental auditing standards were issued by the auditors and are submitted herewith. All four cite no significant instances of noncompliance or other exceptions.

The City Council received and filed the Comprehensive Annual Financial Report for fiscal year ended June 30, 2014, the Report on Internal Controls Over Financial Reporting and On Compliance and Other Matters, the Management Letter, the Auditor's Communication With Those Charged With Governance, and the Report on Agreed-Upon Procedures Applied to Appropriation Limit Worksheet for the Year Ended June 30, 2014.

6G. FINANCIAL REPORT FOR THE YEAR ENDED JUNE 30, 2014 (SUCCESSOR AGENCY)

Attached is the Financial Report for the Successor Agency to the Stanton Redevelopment Agency for the year ended June 30, 2014.

The Agency Board received and filed the Financial Report for the year ended June 30, 2014.

END OF CONSENT CALENDAR

7. **PUBLIC HEARINGS** None.

8. **UNFINISHED BUSINESS** None.

9. **NEW BUSINESS**

9A. SWEARING IN/SEATING NEW COUNCIL MEMBERS

Special Guest Board of Equalization Vice Chair/Supervisor Elect Michelle Steel administered the Oaths of Office to Mr. Brian Donahue and Mr. David John Shawver.

Special Guest Assemblywoman Young Kim administered the Oath of Office to Mr. Rigoberto A. Ramirez.

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10. **ORAL COMMUNICATIONS – PUBLIC** None.

11. **WRITTEN COMMUNICATIONS** None.

12. **MAYOR/CHAIRMAN/COUNCIL/AGENCY/AUTHORITY INITIATED BUSINESS**

12A. **COMMITTEE REPORTS/COUNCIL/AGENCY/AUTHORITY ANNOUNCEMENTS**

Council Member Donahue reported on the Boys and Girls Club of Stanton, 31st Annual Harvest Celebration benefit dinner which was held on Sunday, December 7, 2014.

12B. **COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE COUNCIL MEETING**

None.

12C. **COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE STUDY SESSION**

Currently Scheduled:

January 20, 2015:

- Strategic Planning Session

12D. **REORGANIZATION OF CITY COUNCIL**

Annually the City Council elects a Mayor and Mayor Pro Tem.

The City Clerk opened nominations for Mayor.

Council Member Warren nominated Mayor Pro Tem Alexander A. Ethans for the office of Mayor.

The City Clerk closed nominations for Mayor.

Motion/Second: Donahue/Shawver

Motion unanimously carried by the following vote:

AYES: 5 (Donahue, Ethans, Ramirez, Shawver and Warren)

NOES: None

ABSTAIN: None

ABSENT: None

Mayor Pro Tem Alexander A. Ethans was unanimously elected Mayor.

DRAFT

The Mayor opened nominations for Mayor Pro Tem.

Council Member Shawver nominated Council Member Brian Donahue for the office of Mayor Pro Tem.

The Mayor closed nominations for Mayor Pro Tem.

Motion/Second: Shawver/Ramirez

Motion unanimously carried by the following vote:

AYES: 5 (Donahue, Ethans, Ramirez, Shawver and Warren)

NOES: None

ABSTAIN: None

ABSENT: None

Council Member Brian Donahue was unanimously elected Mayor Pro Tem.

12E. RECOGNITION OF OUTGOING MAYOR

Mayor Ethans presented Council Member Ramirez with a plaque of appreciation from the City of Stanton.

Members of the City Council expressed their gratitude to outgoing Mayor Rigoberto A. Ramirez for his efforts throughout the year.

City Manager Box expressed his gratitude to outgoing Mayor Rigoberto A. Ramirez.

City Attorney Richardson expressed his gratitude to outgoing Mayor Rigoberto A. Ramirez.

Council Member Ramirez expressed his gratitude to the residents and City staff for their support throughout the year.

Council Member Shawver introduced and expressed his gratitude to his wife and family for their support throughout the year.

Council Member Ramirez introduced and expressed his gratitude to his wife, son, and family for their support throughout the year.

Mayor Ethans introduced and expressed his gratitude to his wife for her support throughout the year and thanked his grandson Jared Swanson for continuing his annual tradition of leading the pledge of allegiance.

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13. ITEMS FROM CITY ATTORNEY/AGENCY COUNSEL/AUTHORITY COUNSEL

None.

14. ITEMS FROM CITY MANAGER/EXECUTIVE DIRECTOR

None.

15. ADJOURNMENT Motion/Second: Ethans/
Motion carried at 6:56 p.m.

MAYOR/CHAIRMAN

ATTEST:

CITY CLERK/SECRETARY

CITY OF STANTON

REPORT TO THE CITY COUNCIL

TO: Honorable Mayor and City Council

DATE: January 13, 2015

SUBJECT: NOVEMBER 2014 INVESTMENT REPORT

REPORT IN BRIEF:

The Investment Report as of November 30, 2014 has been prepared in accordance with the City's Investment Policy and California Government Code Section 53646.

RECOMMENDED ACTION:

City Council receive and file the Investment Report for the month of November 2014.

BACKGROUND:

The attached reports summarize the City investments and deposit balances as of November 2014. A summary of the City's investments and deposits is included as Attachment A. The details of the City's investments are shown in Attachment B. The City's cash and investment balances by fund type are presented in Attachment C.

ANALYSIS:

The City's investment in the State Treasurer's Local Agency Investment Fund (LAIF) continues to be available on demand. The effective yield on LAIF for the month of November 2014 was 0.26%. The City's other investments are shown on Attachment B and have a weighted investment yield of 1.04%. Including LAIF and the City's deposit in the Bank of the West money market account, the weighted investment yield of the portfolio is 0.56%, which exceeds the benchmark LAIF return of 0.26%.

The weighted average maturity of the City's investments at November 30, 2014 is 1,019 days. Including LAIF and the money market deposit, it is 586 days. LAIF's average maturity at November 30, 2014 was approximately 232 days.

The City was able to exceed the LAIF benchmark return, though in diversifying the portfolio, Chandler Asset Management has extended the weighted average maturity to more than double the LAIF average maturity.

FISCAL IMPACT:

All deposits and investments have been made in accordance with the City's 2014-15 Investment Policy. The portfolio will allow the City to meet its expenditure requirements for the next six months. Staff remains confident that the investment portfolio is currently positioned to remain secure and sufficiently liquid.

Chandler Asset Management has completely taken over the City's \$9.2 million investment portfolio. City staff continues to have control over investments in LAIF and the Bank of the West Money Market Account.

ENVIRONMENTAL IMPACT:

None

LEGAL REVIEW:

None.

PUBLIC NOTIFICATION:

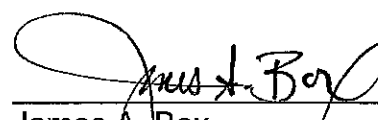
Through the agenda posting process.

Prepared by:



Stephen M. Parker, CPA
Administrative Services Director/Treasurer

Approved:



James A. Box
City Manager

Attachments:

- A. Investments and Deposits
- B. Investment Detail
- C. Cash and Investment Balances by Fund Type

**CITY OF STANTON, CA
INVESTMENTS AND DEPOSITS
November 30, 2014**

Investment Type	Issuer	Date of Maturity	Interest Rate	Par Value	Cost	% of Total	Market Value	Market Value Source
State Pool (LAIF) - City portion ¹	State of California	On Demand	0.26%	\$ 9,432,199	\$ 6,897,128	42.74%	\$ 6,898,378	LAIF
Investments ²	Various	Various	Various	\$ 9,332,890	9,238,673	57.26%	9,240,371	US Bank
Subtotal - Investments					\$ 16,135,801	100.00%	\$ 16,138,749	
Demand Deposits/Main Checking - City portion	Bank of the West	On Demand	N/A	N/A	\$ (2,995,930)		\$ (2,995,930)	Bank of the West
Money Market Account	Bank of the West	On Demand	0.29%	\$ 8,923,553	8,923,553		8,923,553	Bank of the West
Imprest Accts & Petty Cash	Bank of the West	On Demand	N/A	N/A	67,254		67,254	Bank of the West
Subtotal - Deposits					\$ 5,994,877		\$ 5,994,877	

Total Cash Investments and Deposits ³

586	0.558%
Weighted Average Maturity (days)	Weighted Average Yield

\$ 22,130,678

\$ 22,133,626

¹ Par Value amount represents entire LAIF balance, including City and Successor Agency portions

² Cost amount includes \$45,278 adjustment made to City's books at 6/30/14 to adjust portfolio to market value, per GASB 31

³ Weighted average maturity and yield calculations include LAIF, Investments and Money Market Account

NOTES:

The City's portfolio is in compliance with the City's 2014-15 Investment Policy.

The portfolio will allow the City to meet its expenditure requirements for the next six months.

**CITY OF STANTON
INVESTMENTS
November 2014**

Attachment B

Investment Type/ Broker	Institution	CUSIP Number	Purchase Yield	Coupon Rate	Purchase Price	Date Purchased	Date of Maturity	Next Call Date (NC=noncallable)	Par Value	Purchase Amount	Current Market Value	Percent of Portfolio	Maximum Percent
State Treasurer's Pool	Local Agency Investment Fund (LAIF)		0.26%				12/1/2014	NC	9,432,199	6,897,128	6,898,378	27.57%	40%
Cash Equivalents													
Chandler Asset Management	First American Government Obligation	31846/Z03							137,905	27,511	27,511	0.11%	
Negotiable Certificates of Deposit:													
First Empire Securities	CD - Sallie Mae Bank	795450NE8	1.40%	1.400%	100	11/30/11	12/01/14	NC	148,000	148,000	148,000		
Multi-Bank Securities	CD - Orient Bank	58632RAD5	1.80%	1.800%	100	03/18/11	03/18/15	NC	219,000	219,000	219,961		
Multi-Bank Securities	CD - GE Money Bank	36159UTE6	2.20%	2.200%	100	08/20/10	08/20/15	NC	200,000	200,000	202,368		
Multi-Bank Securities	CD - CIT Bank	17284AVP0	1.85%	1.850%	100	08/10/11	08/10/16	NC	148,000	148,000	151,405		
First Empire Securities	CD - EnerBank USA	29266NRX7	1.75%	1.750%	100	08/15/11	08/15/16	NC	248,000	248,000	254,284		
First Empire Securities	CD - Camden National Bk	133033DL1	1.75%	1.750%	100	08/17/11	08/17/16	NC	248,000	248,000	253,783		
First Empire Securities	CD - Discover Bank	254670Q54	1.75%	1.750%	100	08/17/11	08/17/16	NC	140,000	140,000	143,244		
Time Value Investments	CD - GE Capital Bank	36160YSC0	1.35%	1.350%	100	10/19/12	10/19/16	NC	248,000	248,000	249,577		
First Empire Securities	CD - Goldman Sachs Bank	38143ARY3	1.85%	1.850%	100	05/09/12	05/09/17	NC	97,000	97,000	98,765		
First Empire Securities	CD - Discover Bank	254671AT7	1.75%	1.750%	100	05/09/12	05/09/17	NC	100,000	100,000	101,594		
Multi-Bank Securities	CD - Sallie Mae Bank	795450PJ8	1.60%	1.600%	100	10/01/12	09/19/17	NC	100,000	100,000	101,167		
Multi-Bank Securities	CD - American Express	02587DLD8	1.55%	Variable	100	10/04/12	10/04/17	NC	248,000	248,000	250,411		
Time Value Investments	CD - HSBC	40431G3Q0	0.75%	Variable	100	10/26/12	10/26/17	NC	248,000	248,000	243,040		
First Empire Securities	CD - Everbank	29976DPY0	1.10%	1.100%	100	11/30/12	11/30/17	NC	248,000	248,000	250,247		
									2,640,000	2,640,000	2,667,847	10.55%	30%
U.S. Government Agency Securities:													
Multi-Bank Securities	FHLMC	3137EACM9	2.17%	1.750%	98.19	2/9/2011	9/10/2015	NC	400,000	392,756	404,884		
Chandler Asset Management	FHLMC Deb	3137EADQ8	0.50%	0.500%	99.99	01/30/14	05/13/16	NC	200,000	199,995	200,538		
Chandler Asset Management	FHLMC	3137EADJ5	1.03%	1.000%	99.59	09/25/14	07/28/17	NC	190,000	189,866	190,811		
Chandler Asset Management	FHLB	3130A0SD3	0.32%	0.375%	100.04	09/29/14	02/19/16	NC	125,000	125,095	125,204		
Chandler Asset Management	FHLB	3130A2T97	0.86%	0.500%	99.71	09/29/14	09/28/16	NC	125,000	129,537	139,894		
Chandler Asset Management	Federal Home Loan Bks	31333834R9	0.38%	0.375%	99.68	01/30/14	06/24/16	NC	185,000	184,403	184,996		
Chandler Asset Management	FNMA	31350ZL0	1.12%	1.000%	95.70	08/25/14	09/27/17	NC	90,000	89,679	90,081		
Time Value Investments	FNMA - Zero Coupon	31359MEL3	1.02%	0.000%	95.25	8/20/2012	6/1/2017	NC	250,000	238,132	244,718		
									1,565,000	1,609,452	1,631,226	6.43%	100%
US Treasury													
Chandler Asset Management	US Treasury	912828JC2	0.35%	0.250%	99.83	03/25/14	12/15/16	NC	185,000	184,683	185,174		
Chandler Asset Management	US Treasury	912828A59	0.58%	0.625%	100.12	05/29/14	12/15/16	NC	165,000	165,200	165,386		
Chandler Asset Management	US Treasury	912828C73	0.71%	0.875%	100.46	05/29/14	04/15/17	NC	165,000	165,761	165,851		
Chandler Asset Management	US Treasury	912828B41	0.40%	0.375%	99.96	03/25/14	01/31/16	NC	185,000	184,928	185,390		
Chandler Asset Management	US Treasury	912828U57	0.40%	0.375%	99.95	01/30/14	03/15/16	NC	210,000	209,894	210,460		
Chandler Asset Management	US Treasury	912828C32	0.79%	0.750%	99.81	06/25/14	03/15/17	NC	190,000	189,800	190,595		
Chandler Asset Management	US Treasury	912828B74	0.69%	0.625%	99.81	02/28/14	02/15/17	NC	200,000	199,618	200,172		
Chandler Asset Management	US Treasury	912828VC1	0.42%	0.250%	99.68	06/13/14	05/15/16	NC	150,000	149,520	149,000		
Chandler Asset Management	US Treasury	912828VG2	0.45%	0.500%	100.10	06/13/14	06/15/16	NC	150,000	150,147	150,516		
Chandler Asset Management	US Treasury	912828VS9	1.16%	0.625%	98.34	07/31/14	09/30/17	NC	185,000	181,922	183,742		
									1,785,000	1,781,474	1,787,286	7.12%	100%

**CITY OF STANTON
INVESTMENTS
November 2014**

Attachment B

Investment Type/ Broker	Institution	CUSIP Number	Purchase Yield	Coupon Rate	Purchase Price	Date Purchased	Date of Maturity	Next Call Date (NC=noncallable)	Par Value	Purchase Amount	Current Market Value	Percent of Portfolio	Maximum Percent
Medium-Term Corporate Notes:													
Chandler Asset Management	HSBC USA Inc Note	40428HPG1	0.48%	2.375%	102.03	01/14/14	02/13/15	NC	150,000	153,044	150,594		
Chandler Asset Management	Paccar Financial Corp Note	69371RK62	0.43%	1.050%	100.86	01/10/14	06/05/15	NC	106,000	106,915	106,405		
Chandler Asset Management	General Electric Capital Corp Note	38662GAT8	0.54%	2.250%	103.10	01/10/14	11/09/15	NC	150,000	154,644	152,571		
Chandler Asset Management	Wal-Mart Stores Note	931142DE0	0.53%	0.600%	100.16	01/15/14	04/11/16	NC	150,000	150,242	150,288		
Chandler Asset Management	IBM Corp Note	459200GX3	0.76%	1.950%	102.97	01/10/14	07/22/16	NC	150,000	154,461	153,260		
Chandler Asset Management	Pfizer Inc	717081DJ9	1.10%	1.100%	99.91	05/12/14	05/15/17	NC	35,000	34,969	35,069		
Chandler Asset Management	Berkshire Hathaway Note	084664BX8	0.70%	0.950%	100.55	01/14/14	08/15/16	NC	150,000	150,972	150,981		
Chandler Asset Management	Coca Cola Company Note	181216AU4	0.89%	1.800%	102.87	01/14/14	09/01/16	NC	150,000	154,311	153,098		
Chandler Asset Management	Intel Corp Note	458140AH3	0.85%	1.950%	102.93	01/14/14	10/01/16	NC	150,000	154,388	153,198		
Chandler Asset Management	PNC Bank	69349KTS9	0.28%	0.280%	99.77	09/10/14	06/05/15	NC	180,000	179,625	179,712		
Chandler Asset Management	John Deere Capital Corp Note	24422ERL5	1.11%	2.000%	102.51	01/13/14	01/13/17	NC	150,000	153,909	153,150		
Chandler Asset Management	Occidental Petroleum Note	674599CB9	1.05%	1.750%	102.10	01/24/14	02/15/17	NC	150,000	153,147	152,057		
Chandler Asset Management	Wells Fargo Corp Note	94974BFD7	1.26%	2.100%	102.67	01/24/14	05/08/17	NC	150,000	154,005	153,398		
Chandler Asset Management	US Bancorp MTN	91159HHD5	1.16%	1.650%	101.58	02/03/14	05/15/17	4/15/2017	150,000	152,369	151,932		
Chandler Asset Management	JP Morgan Note	48126EAA5	1.63%	2.000%	101.28	01/24/14	08/15/17	NC	150,000	151,925	152,166		
Chandler Asset Management	Chadco Corp Note	65399XAN5	1.40%	1.200%	99.27	01/13/14	10/15/17	NC	150,000	148,998	150,074		
Chandler Asset Management	Chevron Corp Callable Note Cont	166764AA8	1.41%	1.104%	98.83	01/10/14	12/05/17	11/5/2017	150,000	148,241	149,390		30%
									2,421,000	2,456,061	2,447,340	9.82%	
Asset-Backed Securities:													
Chandler Asset Management	Toyota Auto Receivables 2012B	89231NAC7	0.39%	0.46%	51.31	01/16/14	07/15/16	NC	143,985	73,886	73,868		
Chandler Asset Management	Honda Auto Receivables	43814CAC3	0.42%	0.48%	76.53	02/12/14	11/21/16	NC	150,000	114,799	114,738		
Chandler Asset Management	Chase Issuance Trust	181571FL3	0.49%	0.59%	100.18	02/12/14	08/15/17	NC	150,000	150,275	150,104		
Chandler Asset Management	Honda Auto Receivables	43814HAC2	0.89%	0.98%	99.98	08/20/14	06/15/18	NC	75,000	74,986	75,058		
Chandler Asset Management	Toyota Auto Receivables 2014A	89231MAC9	0.69%	0.67%	96.98	03/11/14	12/15/17	NC	75,000	74,986	75,036		
Chandler Asset Management	John Deere Owner Trust	477877AD6	1.07%	99.98%	96.78	09/03/14	11/15/18	NC	85,000	84,981	85,200		
Chandler Asset Management	John Deere Owner Trust	477877AC5	0.93%	0.92%	99.98	04/02/14	04/18/18	NC	105,000	104,983	105,158		
									783,985	678,897	679,160	2.71%	10%
Subtotal Investments													
Prior Year Adjustment GASB 31													
Investments Held With US Bank													
LAIF													
Total Investments													
Money Market Acct													
Total Money Market, LAIF and Investments													
			1.04% Weighted Average Yield				1,019 WAM	days	9,332,890	9,193,395	9,240,371		
									9,332,890	45,278	9,240,371	0	
									9,432,199	6,897,128	6,898,378		
									18,765,089	16,135,801	16,138,749		
			0.29% 0.56% Weighted Average Yield				12/1/2014 586 WAM	days	8,923,553	8,923,553	8,923,553	35.67%	40%
									27,688,642	25,014,076	25,062,302	100.00%	

CITY OF STANTON
CASH AND INVESTMENT BALANCES BY FUND TYPE
November 30, 2014

Fund Type	Cash and Investments	Totals
General Fund:		
Pooled	\$ (7,693,989)	
Restricted *	18,229,480	\$ 10,535,490
Special Revenue, Capital Projects and Enterprise Funds:		
Gas Tax	1,382,767	
Proposition 1B	9,349	
Measure M	1,195,133	
Fire Emergency Services	(155,269)	
Lighting & Median Maint.	2,615,810	
Sewer Maintenance	2,148,160	
Other	2,775,260	9,971,210
Internal Service Funds		1,464,080
Trust Funds		159,898
Total Cash and Investment Balances		\$ 22,130,678

* Money Market, Imprest Accounts, Petty Cash and Investments

CITY OF STANTON

REPORT TO THE SUCCESSOR AGENCY TO THE STANTON REDEVELOPMENT AGENCY

TO: Honorable Chair and Members of the Successor Agency

DATE: January 13, 2014

SUBJECT: NOVEMBER 2014 INVESTMENT REPORT

REPORT IN BRIEF:

The Investment Report as of November 30, 2014 has been prepared in accordance with the City's Investment Policy and California Government Code Section 53646.

RECOMMENDED ACTION:

Successor Agency receive and file the Investment Report for the month of November 2014.

BACKGROUND:

The attached reports summarize the Successor Agency investments and deposit balances as of November 2014. A summary of the Agency's investments and deposits is included as Attachment A. The Agency's cash balances by fund are presented in Attachment B.

ANALYSIS:

The Agency's investment in the State Treasurer's Local Agency Investment Fund (LAIF) continues to be available on demand. The effective yield on LAIF for the month of November 2014 was 0.26%. The Agency had no other investments, other than those managed by bond trustees. The money market mutual fund investments by the bond trustees generated minimal interest income.

FISCAL IMPACT:

All deposits and investments have been made in accordance with the City's 2014-15 Investment Policy.

The portfolio will allow the Agency to meet its expenditure requirements for the next six months.

ENVIRONMENTAL IMPACT:

None

LEGAL REVIEW:

None.

PUBLIC NOTIFICATION:

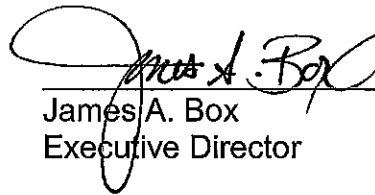
Through the agenda posting process.

Prepared by:



Stephen M. Parker, CPA
Administrative Services Director/Treasurer

Approved by:



James A. Box
Executive Director

Attachments:

- A. Investments and Deposits
- B. Cash Balances by Fund

**SUCCESSOR AGENCY TO THE STANTON REDEVELOPMENT AGENCY
INVESTMENTS AND DEPOSITS
November 30, 2014**

Investment Type	Issuer	Date of Maturity	Interest Rate	Par Value	Cost	Market Value	MV Source
State Pool (LAIF) - SA portion	State of California	On Demand	0.26%	\$ 2,535,071	\$ 2,535,071	\$ 2,535,764	LAIF
Demand Deposits/Main Checking - SA portion	Bank of the West	On Demand	N/A	(1,101,168)	(1,101,168)	(1,101,168)	Bank of the West

Total Cash Investments and Deposits

\$ 1,433,903 \$ 1,434,596

Bond Funds Managed by Trustees:

Investment Type	Issuer	CUSIP Number	Date of Maturity	Interest Rate	Par Value	Cost	Market Value	MV Source
2005 Tax Allocation Bonds - Series A (Taxable)								
Principal:								
US Bank Money Market Fund	US Bank	9AMMF05B2	On Demand	0.03%	\$270,000	270,000	270,000	US Bank
Interest:								
US Bank Money Market Fund	US Bank	9AMMF05B2	On Demand	0.03%	\$ 375,200	\$ 375,200	\$ 375,200	US Bank
Reserve Account:								
US Bank Money Market Fund	US Bank	9AMMF05B2	On Demand	0.03%	1,483,847	1,483,847	1,483,847	US Bank
Redevelopment Fund:								
US Bank Money Market Fund	US Bank	9AMMF05B2	On Demand	0.03%	811	811	811	US Bank

Total 2005 Tax Allocation Bonds - Series A (Taxable)

\$ 2,129,858 \$ 1,859,858

Investment Type	Issuer	CUSIP Number	Date of Maturity	Interest Rate	Par Value	Cost	Market Value	MV Source
2005 Tax Allocation Bonds - Series B (Tax-Exempt)								
Principal								
US Bank Money Market Fund Reserve Account:	US Bank	9AMMF05B2	On Demand	0.03%	\$ 195,000	\$ 195,000	\$ 195,000	US Bank
US Bank Money Market Fund Redevelopment Fund:	US Bank	9AMMF05B2	On Demand	0.03%	821,801	821,801	821,801	US Bank
US Bank Money Market Fund	US Bank	9AMMF05B2	On Demand	0.03%	3,502	3,502	3,502	US Bank

Total 2005 Tax Allocation Bonds - Series B (Tax-Exempt) \$ 1,020,304 \$ 1,020,304

Investment Type	Issuer	CUSIP Number	Date of Maturity	Interest Rate	Par Value	Cost	Market Value	MV Source
2010 Tax Allocation Bonds (Tax-Exempt)								
Principal	US Bank				\$315,000	315,000.00	315,000.00	US Bank
Interest								
US Bank Money Market Fund Reserve Account:	US Bank	9AMMF05B2	On Demand	0.03%	536,437	536,437	536,437	US Bank
US Bank Money Market Fund Redevelopment Fund:	US Bank	9AMMF05B2	On Demand	0.03%	1,561,720	1,561,720	1,561,720	US Bank
US Bank Money Market Fund	US Bank	9AMMF05B2	On Demand	0.03%	6,496,088	6,496,088	6,496,088	US Bank

Total 2010 Tax Allocation Bonds (Tax-Exempt) \$ 8,909,245 \$ 8,909,245

Investment Type	Issuer	CUSIP Number	Date of Maturity	Interest Rate	Par Value	Cost	Market Value	MV Source
2011 Tax Allocation Bonds - Series A (Taxable)								
Principal:								
US Bank Money Market Fund	US Bank				235,000	235,000	235,000	US Bank
Reserve Fund:								
US Bank Money Market Fund	US Bank	9AMMF05B2	On Demand	0.03%	1,474,401	1,474,401	1,474,401	US Bank
Project Account:								
US Bank Money Market Fund	US Bank	9AMMF05B2	On Demand	0.03%	4,726,294	4,726,294	4,726,294	US Bank
Interest Fund:								
US Bank Money Market Fund	US Bank	9AMMF05B2	On Demand	0.03%	656,861	656,861	656,861	US Bank

Total 2011 Tax Allocation Bonds - Series A (Taxable) \$ 7,092,557 \$ 7,092,557

Investment Type	Issuer	CUSIP Number	Date of Maturity	Interest Rate	Par Value	Cost	Market Value	MV Source
2011 Tax Allocation Bonds - Series B (Taxable)								
Bond Reserve Fund:								
US Bank Money Market Fund	US Bank	9AMMF05B2	On Demand	0.03%	1,348,963	1,348,963	1,348,963	US Bank
Redevelopment Account:								
US Bank Money Market Fund	US Bank	9AMMF05B2	On Demand	0.03%	1,582,151	1,582,151	1,582,151	US Bank
Interest Fund:								
US Bank Money Market Fund	US Bank	9AMMF05B2	On Demand	0.03%	524,394	524,394	524,394	US Bank

Total 2011 Tax Allocation Bonds - Series B (Taxable) \$ 3,455,508 \$ 3,455,508

Total Bond Fund Investments and Deposits (3) **\$ 22,607,471 \$ 22,337,471**

Notes:

- (1) - There have been no exceptions to the Investment Policy.
- (2) - The Successor Agency is able to meet its expenditure requirements for the next six months.
- (3) - Restricted Bond Funds are held by the fiscal agent.

SUCCESSOR AGENCY TO THE STANTON REDEVELOPMENT AGENCY**POOLED CASH BALANCES BY FUND TYPE
November 30, 2014**

Fund	Cash Balance
710 Project 2000 Debt Service Fund	-
711 Redevelopment Debt Service Fund	-
712 Redevelopment Obligation Retirement Fund	1,533,466
720 Low and Moderate Income Housing Fund	-
721 Housing Successor Fund	-
730 Community Redevelopment Administration Fund	-
731 Successor Agency Admin Fund	(99,563)
740 Redevelopment Project Fund	-
741 Successor Agency Project Fund	-

TOTAL CASH BALANCE**\$ 1,433,903**

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: January 13, 2015

SUBJECT: MAYOR'S APPOINTMENTS OF COUNCIL MEMBERS AS REPRESENTATIVES TO VARIOUS BOARDS, COMMISSIONS, COMMITTEES AND AGENCIES

REPORT IN BRIEF:

Traditionally, Council Members have been appointed by the Mayor to serve on numerous outside committees, boards, commissions and agencies. Each appointee is responsible for representing the City and voting on behalf of the City Council. The Mayor has conducted a review and has selected appointees, as detailed in Attachment 1. With the exception of the Orange County Fire Authority ("OCFA") appointment, which is required to be made by Resolution, the Mayor may otherwise make appointments to each committee, board, commission or agency by nomination and Minute Order confirmation. In addition, the Fair Political Practices Commission ("FPPC") regulations require the adoption and posting of Form 806, Agency Report of Public Official Appointments, in order for individual Council Members to participate in a City Council vote that would result in him or her serving in a position that provides compensation of \$250 or more in any 12-month period.

RECOMMENDED ACTION:

1. City Council confirm the Mayor's appointments; and
2. Approve FPPC Form 806 and authorize the City Clerk to post the form on the City's website.

BACKGROUND:

At the first meeting of the year, the Mayor traditionally reviews the list of Council Members designated on the submitted Mayor's Appointments list. Historically, at the first meeting of the year, the City Council has confirmed the existing memberships through reappointments or made new appointments, and has also added or deleted board, commission, committee, and agency memberships, as appropriate. Based on changes to the FPPC Regulation 18705.5 (Materiality Standard: Economic Interest in Personal Finances) a public official may participate in a Council vote that would result in him or her serving in a position

that provides compensation in the form of stipends, reimbursement or direct payment of \$250 or more in any 12-month period. The revised regulation specifies, however, that the body making such an appointment(s) must adopt and post a list of the appointments on its website. In May 2012, the FPPC adopted Form 806 to accomplish the required positing.

ANALYSIS/JUSTIFICATION:

The "Mayor's Appointments of Council Members as Representatives to Various Agencies List" (Attachment A) documents the various committees and boards to which the Mayor proposes to appoint Council Members. In previous years, the Mayor has reviewed the list prior to the first meeting of the new year, and any changes, additions, or deletions to any of the appointments are made by Minute Order.

FISCAL IMPACT:

There is minimal fiscal impact associated with the recommended action.

ENVIRONMENTAL IMPACT:

None.

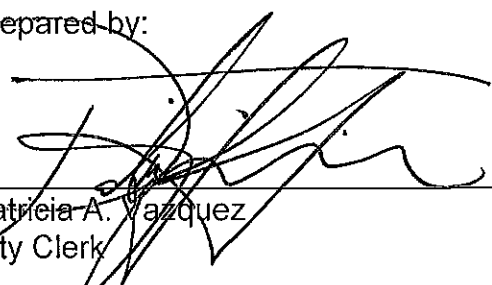
LEGAL REVIEW:

None.

PUBLIC NOTIFICATION:

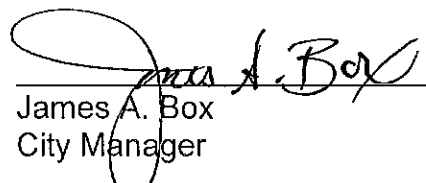
Through the regular agenda process.

Prepared by:



Patricia A. Vazquez
City Clerk

Approved by:



James A. Box
City Manager

Attachments:

- A. Mayor's Appointments of Council Members as Representatives to Various Agencies List
- B. Draft FPPC Form 806

CITY OF STANTON

**MAYOR'S APPOINTMENTS OF COUNCIL MEMBERS
AS REPRESENTATIVES TO VARIOUS AGENCIES**

1. Transportation Growth Management Area Group No. 2

Delegate: Rigoberto A. Ramirez
Alternate: Al Ethans

2. Stanton Business Alliance

Delegate: Rigoberto A. Ramirez
Alternate: Al Ethans

3. Santa Ana River Flood Protection Agency

Delegate: Al Ethans
Alternate: Rigoberto A. Ramirez

4. West Orange County Cities Association (formerly Mayors Group)

Delegate: Rigoberto A. Ramirez
Alternate: Brian Donahue

5. City of Stanton Contractual Services Committee

Representative: Brian Donahue
Representative: David Shawver

6. City of Stanton Development Committee

Representative: Rigoberto A. Ramirez
Representative: David Shawver

7. Orange County Emergency Management Organization (OCEMO) Executive Committee

Delegate: Al Ethans
Alternate: Carol Warren

8. Orange County Library Advisory Board

Delegate: Rigoberto A. Ramirez
Alternate: Brian Donahue

9. TIP – Trauma Intervention Program

Delegate: Carol Warren

10. Stanton Community Foundation

Delegate: Brian Donahue
Alternate: Rigoberto A. Ramirez

11. Stanton Collaborative

Delegate: Al Ethans
Alternate: Rigoberto A. Ramirez

12. Orange County Vector Control District

Delegate: Al Ethans
Alternate: None (OCVCD does not recognize alternates)

13. Orange County Sanitation District No. 3

Delegate: David Shawver
Alternate: Carol Warren

14. Public Cable Television Authority

Delegate 1: David Shawver
Delegate 2: Carol Warren

Note:

The Mayor of each incorporated city within the county is the member of the League of California Cities and the Association of California Cities Orange County, City Selection Committee; and

Per City Council Resolution No. 2012-02 the representatives for the Orange County Fire Authority are as follows:

- *Delegate: David Shawver*
- *Alternate: Carol Warren*

**Agency Report of:
Public Official Appointments**

DRAFT

A Public Document

1. Agency Name City of Stanton		California Form 806 For Official Use Only
Division, Department, or Region (If Applicable) City Council		
Designated Agency Contact (Name, Title) Patricia A. Vazquez, City Clerk		
Area Code/Phone Number 714-379-9222 ext. 245	E-mail pvazquez@ci.stanton.ca.us	
Page 1 of 1		Date Posted: DRAFT (Month, Day, Year)

2. Appointments

Agency Boards and Commissions	Name of Appointed Person	Appt Date and Length of Term	Per Meeting/Annual Salary/Stipend
Orange County Fire Authority	▶ Name <u>Shawver, David J.</u> <small>(Last, First)</small> Alternate, if any <u>Warren, Carol</u> <small>(Last, First)</small>	▶ <u>01 / 13 / 15</u> <small>Appt Date</small> ▶ <u>1 Year</u> <small>Length of Term</small>	▶ Per Meeting: \$ <u>100.00</u> ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input checked="" type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> Other
Orange County Vector Control District	▶ Name <u>Ethans, Al</u> <small>(Last, First)</small> Alternate, if any <u>None</u> <small>(Last, First)</small>	▶ <u>01 / 13 / 15</u> <small>Appt Date</small> ▶ <u>1 Year</u> <small>Length of Term</small>	▶ Per Meeting: \$ <u>100.00</u> ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input checked="" type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> Other
Orange County Sanitation District No. 3	▶ Name <u>Shawver, David J.</u> <small>(Last, First)</small> Alternate, if any <u>Warren, Carol</u> <small>(Last, First)</small>	▶ <u>01 / 13 / 15</u> <small>Appt Date</small> ▶ <u>1 Year</u> <small>Length of Term</small>	▶ Per Meeting: \$ <u>212.50</u> ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input checked="" type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> Other
Public Cable Television Authority	▶ Name <u>Shawver, David J.</u> <small>(Last, First)</small> Alternate, if any <u>Warren, Carol</u> <small>(Last, First)</small>	▶ <u>01 / 13 / 15</u> <small>Appt Date</small> ▶ <u>1 Year</u> <small>Length of Term</small>	▶ Per Meeting: \$ <u>100.00</u> ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input checked="" type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> Other

3. Verification

I have read and understand FPPC Regulation 18705.5. I have verified that the appointment and information identified above is true to the best of my information and belief.

Signature of Agency Head or Designee

Print Name

Title

(Month, Day, Year)

Comment:

DRAFT

RESOLUTION NO. 2015-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA AUTHORIZING THE CITY MANAGER TO ACCEPT THE ALLOCATION OF FUNDS FROM THE BOARD OF STATE AND COMMUNITY CORRECTIONS THROUGH THE CALIFORNIA GANG REDUCTION INTERVENTION PARTNERSHIP (CAL GRIP) PROGRAM AND TO EXECUTE GRANT AGREEMENTS AND ANY AMENDMENTS THERETO TO SECURE SUCH CAL GRIP GRANT FUNDING FROM THE BOARD OF STATE AND COMMUNITY CORRECTIONS

WHEREAS, the Cal GRIP Program is a State funded program administered by the Board of State and Community Corrections (BSCC) through grants to California municipalities as authorized from the State Budget Act 2012 (AB 1464; chapter 21, Statutes of 2012); and

WHEREAS, the Cal GRIP Program provides grants to cities using a local collaborative effort to reduce gang activity through the use of evidence-based prevention, intervention and suppression activities; and

WHEREAS, the Board of State and Community Corrections has issued a Request for Application (RFP) for the California Gang Reduction Intervention Prevention Program for the grant period of three years (begin January 1, 2015 and end December 31, 2017), subject to the terms and conditions of the RFP and program application forms; and

WHEREAS, the City of Stanton applied for an allocation of funds through the California Gang Reduction Intervention Prevention (Cal GRIP) Program; and

WHEREAS, the Board of State and Community Corrections has approved the City of Stanton's application and request for an allocation of funds through the Cal GRIP program; and

WHEREAS, the City of Stanton desires to authorize the City Manager to accept the allocation of funds from the Cal GRIP program when an allocation of funds through the Cal GRIP program has been received and to execute all and any related grant agreements and any amendments approved by the City Attorney to secure the Cal GRIP grant funding.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA DOES HEREBY RESOLVE THAT:

SECTION 1: The City Manager is authorized to, on behalf of the City of Stanton, accept any Cal GRIP program funds once the Board of State and Community Corrections has allocated such funds to the City of Stanton.

SECTION 2: The City Manager is further authorized to perform all actions necessary and required in carrying out this Resolution including, but not limited to, the execution, in the name of the City of Stanton, any applications, any agreements, and all other documents required by the Board of State and Community Corrections, as approved by the City Attorney, for participation in the California Gang Reduction Intervention Prevention Program.

ADOPTED, SIGNED AND APPROVED this 13th day of January, 2015.

ALEXANDER A. ETHANS, MAYOR

APPROVED AS TO FORM:

MATTHEW E. RICHARDSON, CITY ATTORNEY

ATTEST:

I, Luz A. Rodriguez, Interim City Clerk of the City of Stanton, California DO HEREBY CERTIFY that the foregoing Resolution, being Resolution No. 2015-03 has been duly signed by the Mayor and attested by the Interim City Clerk, all at a regular meeting of the Stanton City Council, held on January 13, 2015, and that the same was adopted, signed and approved by the following vote to wit:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

LUZ A. RODRIGUEZ, INTERIM CITY CLERK

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: January 13, 2015

SUBJECT: AWARD OF CONSTRUCTION CONTRACT FOR THE LEXINGTON LIFT STATION REMOVAL PROJECT BY THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA

REPORT IN BRIEF:

The bid for the Lexington Sewer Lift Station Removal Project was opened on December 18, 2014. Based on the post-bid analysis of the single bid received, staff recommends the bid submitted by S.E. Nelson Construction, Inc. to be responsible and responsive.

The cost for completing the Lexington Sewer Lift Station Removal Project is estimated at \$61,513.00, which includes a 10-percent contingency.

RECOMMENDED ACTION:

1. City Council approve the plans and specifications for the Lexington Sewer Lift Station Removal Project; and
2. Award a construction contract for the Lexington Sewer Lift Station Removal Project to the lowest responsible bidder, S.E. Nelson Construction, Inc., for the amount of \$55,913.00; and
3. Authorize the City Manager to bind the City of Stanton and S.E. Nelson Construction, Inc. in a contract for the construction of the Lexington Lift Station Removal Project; and
4. Declare this project to be categorically exempt under the California Environmental Quality Act, Class 1, Section 15301c; and
5. Authorize the City Manager to approve contract changes, not to exceed 10-percent.

BACKGROUND:

The Lexington sewer lift station was built in the early 1950's at the north west corner of Lexington Street and Cerritos Ave. This project will include the removal of the old abandoned sewer lift station and grading the surrounding area to match the private yard at 10461 Lexington St. Also, the existing fence around the lift station must be removed and reconstructed to match the adjacent fencing around the property.

The estimated project cost of \$61,513.00 is as follows:

Base Bid (S.E. Nelson Construction, Inc.)	\$ 55,913.00
Construction Contingency (10%)	\$ 5,600.00
Total Estimated Project Cost	\$ 61,513.00

ANALYSIS/JUSTIFICATION:

The project was advertised for bids on November 20, 2014. Notices announcing the solicitation of bids for this project were posted local on F.W. Dodge publication known as the "Green Sheets" and on Bid America. Staff also sent the notice inviting bids to local contracting companies that specialize in similar projects. A mandatory pre-bid site inspection was held on December 9, 2014 at 2 p.m. and two (2) firms attended.

The bids were publicly opened on December 18, 2014 at 2:00 p.m. One (1) bid was received:

Rank	Company	Bid
1	S.E. Nelson Construction, Inc.	\$ 55,913.00

Staff has reviewed the submitted bid documents and found S.E. Nelson Construction, Inc. in compliance with the contract documents. A check of the references submitted indicates that the bidder has successfully completed similar projects within Southern California. S.E. Nelson Construction, Inc. has completed numerous projects of similar and larger size in recent years. Upon successful execution of the contract documents, the project is expected to begin construction in early 2015. The contractor will have approximately four (4) weeks to complete the project. Please note that the design engineer estimated that the construction cost would be about \$70,000, so staff feels comfortable with the cost of the bid.

FISCAL IMPACT:

This project was budgeted for in the FY 14/15 Capital Improvement Program. Funding for this project is available through the City's Sewer Maintenance Fund in account 501-3700-730105. This project will not have any impact on the General Fund.

ENVIRONMENTAL IMPACT:

This project is categorically exempt under the California Environmental Quality Act, Class 1, and Section 15301c as replacement of existing facilities.

LEGAL REVIEW:

None.

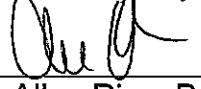
PUBLIC NOTIFICATION:

Notifications and advertisement were performed as prescribed by law.

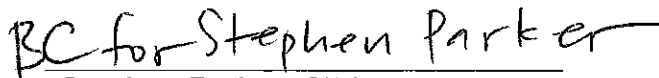
Prepared by:


Stephanie Camorlinga
Engineering Assistant

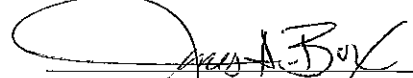
Reviewed by:


Allan Rigg, P.E. AICP
Director of Public Works

Concur:


Stephen Parker, CPA
Administrative Services Director

Approved by:


James A. Box
City Manager

Attachments:

- 1) Lexington Sewer Lift Station Removal Contract

CITY OF STANTON

PUBLIC WORKS CONTRACT

LEXINGTON LIFT STATION REMOVEAL PROJECT

I.

This Contract is made and entered into on the January 13th day of 2015, by and between the City of **Stanton**, a California General Law Municipal Corporation ("City") and J.E. Nelson Construction, Inc ("Contractor"). City and Contractor, based upon their mutual promises contained herein and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, do hereby agree as follows:

The complete Contract includes all of the Contract Documents, to wit:

- A. Advertisement for Bids, dated 11-20, 2014
- B. Information for Bidders
- C. Bid, dated 12-18, 2014
- D. Bid Bond
- E. Payment Bond
- F. Contract Performance Bond
- G. Certificates of Insurance, Certified Copies of Insurance Policies, and Endorsements
- H. Notice Award
- I. Notice to Proceed
- J. Change Order
- K. Specifications entitled "Contract Documents and Specifications for the Lexington Lift Station Removal Project" including the following sections:
 - 1. Procedural Documents
 - 2. General Conditions
 - 3. Special Conditions
 - 4. Appendix
- L. Drawings
- M. Addenda Nos. 0
- N. Certified Copy of the record of action of the City Council of City of Stanton, Stanton, California.
- O. Public Improvement Warranty
- P. Latest Edition, Standard Specifications for Public Works Construction.

Q. Latest Edition, Orange County RDMD Standard Drawings.

Each of such documents in their entirety are incorporated herein by this reference as if set forth in full.

II. BID AMOUNTS

The Contractor agrees to perform the work set forth and particularly described in the aforementioned documents, incorporated herein by reference, in consideration of the amount of the BASE BID, to wit: \$ 55,913.00

III. BONDS

Contractor shall furnish a Labor and Material Bond in an amount equal to one-hundred percent (100%) of the Contract Price, and a Faithful Performance Bond in an amount equal to one-hundred percent (100%) of the Contract Price, said bonds to be secured from a surety company admitted and authorized to do business in California as such.

IV. INDEMNITY

Contractor and City agree that City, its employees, agents and officials should, to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, cost, expense, attorney's fees, litigation costs, defense costs, court costs, or any other cost arising out of or in any way related to the performance of this agreement. Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide the fullest protection possible under the law to the City. Contractor acknowledges that City would not enter into this agreement in the absence of the commitment of Contractor to indemnify and protect City as set forth here.

To the full extent permitted by law, Contractor shall defend, indemnify and hold harmless City, its employees, agents, and officials, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses, or costs of any kind, whether actual, alleged or threaten, actual attorney fees incurred by City, court costs, interest, defense costs including expert witness fees and any other costs or expenses of any kind whatsoever without restriction or limitation incurred in relation to, as a consequence of or arising out of or in any way attributable actually or impliedly, in whole or in part to the performance of this agreement. All obligations under this provision are to be paid by Contractor as they are incurred by the City.

Without affecting the rights of City under any provision of this agreement or this section, Contractor shall not be required to indemnify and hold harmless City as set forth above for liability attributable to the sole fault of City, provided such sole fault is determined by agreement between the parties or the findings of a court of competent jurisdiction. This exception will apply only in instances where the City is shown to have been solely at fault and not in instances where Contractor is solely or partially at fault or in instances where City's fault accounts for only a percentage of the liability involved. In those

instances, the obligation of Contractor will be all-inclusive and City will be indemnified for all liability incurred, even though a percentage of the liability is attributable to conduct of the City.

Contractor acknowledges that its obligation pursuant to this section extends to liability attributable to City, if that liability is less than the sole fault of City. Contractor has no obligation under this agreement for liability proven in a court of competent jurisdiction or by written agreement between the parties to be the sole fault of City.

The obligations of Contractor under this or any other provision of this agreement will not be limited by the provisions of any workers compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City, its employees and officials.

Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subcontractor, subtier contractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance or subject matter of this agreement. In the event Contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this section.

Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth herein is binding on the successors, assigns, or heirs of Contractor and shall survive the termination of this agreement or this section.

V. INSURANCE

The Contractor shall secure and maintain throughout the term of the Contract the following types of insurance with limits as shown:

Workers Compensation - A program of Workers Compensation Insurance or a State-approved self-Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employers Liability with One-Million Dollars (\$1,000,000.00) limits, covering all persons providing services on behalf of the Contractor and all risks to such persons under this Contract.

General Liability - Such general liability insurance shall be written with a limit of liability of not less than Two-Million Dollars (\$2,000,000.00) combined single limits for damages arising out of bodily-injury, including sickness and death, injury to or destruction of property of others, arising directly or indirectly out of or in connection with the performance of the Work under the Contract Documents including explosion, collapse, and underground exposure.

Vehicle Liability - Such vehicle liability insurance shall be written with a limit of liability of not less than One-Million Dollars (\$1,000,000.00) combined single limits for all

bodily injury, including sickness and death or injury to or destruction of property of others, arising directly or indirectly out of or in connection with the performance of the Work under the Contract Documents including explosion, collapse, and underground exposure.

If the City determines to require the Contractor to procure such insurance, such insurance shall cover as insureds under all policies excepting workers compensation the City, its officers, employees, and agents. The policy or policies for such insurance may provide for a deductible amount not to exceed five percent (5%) of the Contract Price. As provided in Section 7105 of the California Public Contract Code, the Contractor is responsible for the cost of repairing or restoring work up to five percent (5%) of the contract amount.

All insurers shall be admitted and authorized to do business in California as insurance carriers.

Contractor shall immediately furnish certificates of insurance and the Contractor shall provide certified copies of all policies and endorsements to the City evidencing the insurance coverage

above required prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the City, and shall maintain such insurance from the time Contractor commences performances of services hereunder until the completion of such services. Within thirty (30) days of award of the contract, Contractor shall provide City with certified copies of all insurance policies required hereunder.

All policies, with respect to the insurance coverage above required, except for the Workers' Compensation Insurance coverage and liability coverage, if applicable, shall obtain additional endorsements covering the City and its officers, employees, and agents, as insureds with respect to liabilities arising out of the performance of services hereunder.

The Contractor shall require the carriers of the above required coverage's to waive all rights of subrogation against the City, its officers, employees, contractors, agents, and subcontractors.

All policies required above are to be primary and noncontributing with any insurance or self-insurance programs carried or administered by the City.

VI. CONTRACT PRICE

The City agrees to pay, and the Contractor agrees to accept in full payment for the work outlined, in the Contract Documents, the sum of _____ (~~\$55,913.0~~) subject to additions and deductions, if any, in accordance with said documents. Payment shall not be made more often than once each thirty (30) days, nor shall amount paid be in excess of ninety percent (90%) of the Contract at time of completion. Final payment to be made thirty-five (35) days subsequent to filing of Notice of Completion. Contractor

may, upon Contractor's written request, and approved by the City Council, at Contractor's expense, deposit eligible substitute securities, as described in Government Code Section 16430, and as authorized by Public Contract Code, Section 22300, in lieu of retention monies withheld to insure performance.

VII. COMMENCEMENT AND COMPLETION OF WORK

The Contractor shall commence the work required by this Contract within ten (10) days of the date specified in the Notice to Proceed and shall complete the Work within Twenty (20) working days. City and Contractor have discussed the provisions of Government Code Section 53069.85 and the damages which may be incurred by City if the Work is not completed within the time specified in this Contract. The City and Contractor hereby represent that at the time of signing this Contract, it is impracticable and extremely difficult to fix the actual damage which will be incurred by City if the Work is not completed within the number of calendar days allowed. Accordingly, City and Contractor agree that the sum of One Thousand Dollars (\$1,000.00) per day is a reasonable sum to assess as damages to City by reason of the failure of Contractor to complete the Work within the time specified.

VIII. MISCELLANEOUS

The Contractor acknowledges that, in accordance with Section 1777.5 of the State Labor Code, he/she will be held responsible for compliance with the provisions of this Section for all apprenticeable occupations.

The Contractor hereby waives for himself/herself and for Contractor's Subcontractors any right Contractor may now or in the future possess in relation to this Contract and these Contract Documents and the work thereunder, to utilize the provisions of Civil Code Section 47(b) in any action, proceeding, or prosecution pursuant to California False Claims Act, Government Code Section 12650 et seq.

IX.

Contractor acknowledges and agrees that Contractor must have all appropriate contractor's licenses. Contractor further warrants and represents that he/she/they has/have the appropriate contractor's license to perform the work hereunder. Contractor's failure to have or maintain all appropriate licenses during the entire term of this contract, or any period thereof, shall be cause for the immediate and summary termination of this Contract by City. Contractor shall be liable for all City's costs to complete the work and this Contract.

X.

The person or persons executing this Contract on behalf of Contractor warrants and represents he/she/they has/have the authority to execute this Contract on behalf of his/her/their corporation, partnership, or business entity and warrant and represents that he/she/they has/have the authority to bind Contractor to the performance of its obligations hereunder.

XI.

This Contract contains the completely final, entire, and exclusive agreement between the parties with respect to the subject matter hereof, and no waiver, alteration, or modification of any of the provisions hereof or rights to act hereunder shall be binding unless in writing. Any attempted modification, amendment, or alteration in violation hereof shall be void.

IN WITNESS WHEREOF, each of the parties hereto has caused the Contract to be executed in its name on its behalf by a duly authorized officer as of this day and year first above written.

CITY OF STANTON:

[NAME OF CONTRACTOR]:

SE Nelson Construction

By: _____
CITY MANAGER

By: *Scott Nelson* _____
(Corporate Officer)

Title: *President* _____

ATTEST:

Print Name: *Scott Nelson* _____

By: _____
DEPUTY CITY CLERK

By: _____
(Corporate Officer)

APPROVED AS TO FORM:

Title: _____

Print Name: _____

By: _____
CITY ATTORNEY

NOTARY REQUIRED

Bond No. _____ Bond Premium _____

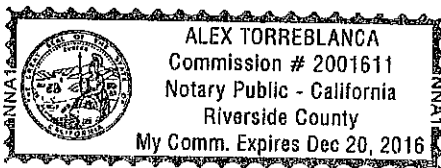
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT
CIVIL CODE § 1189

State of California

County of Riverside

On January 7th 2015 before me, Alex Torreblanca Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared Scott Nelson
Name(s) of Signer(s)



Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: [Signature]
Signature of Notary Public

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Public Works Contract Document Date: 12-18-2014

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Scott Nelson

- ☒ Corporate Officer — Title(s): President
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

- ☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

CITY OF STANTON

REPORT TO THE CITY COUNCIL

TO: Honorable Mayor and City Council

DATE: January 13, 2015

SUBJECT: BOARD OF EQUALIZATION AGREEMENTS

REPORT IN BRIEF:

In order for the State Board of Equalization (BOE) to administer and enforce the transactions and use tax (Measure GG) for the City, agreements authorizing the BOE to carry out the provisions of the Revenue and Taxation Code and the Ordinance need to be approved by City Council.

RECOMMENDED ACTION:

1. City Council find that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
2. Adopt Resolution No. 2015-04 authorizing the City Manager to execute agreements with the State Board of Equalization for implementation of a local transactions and use tax.

BACKGROUND:

Measure GG was approved by the majority of the residents of the City of Stanton on November 4, 2014. As such, the City Council approved Ordinance No. 1030 amending the City Municipal Code and providing for a local transactions and use tax. The State Board of Equalization is the California agency trusted with administering the operations of transactions and use taxes.

ANALYSIS/JUSTIFICATION:

In order for the BOE to administer and enforce the transactions and use tax for the City, two standard agreements are required to be authorized by the City Council. The attached resolution authorizes the City Manager to sign those agreements with the City Council's authorization.

FISCAL IMPACT:

Authorization to execute the agreements will be necessary in order to realize proceeds from the transactions and use tax. Consultant estimates are for the tax to result in \$3,120,000 in revenue in the first year of implementation. Initial estimates for the current fiscal years' revenue is \$500,000.

ENVIRONMENTAL IMPACT:

None.

LEGAL REVIEW:

The City Attorney has reviewed and approved the attached resolution and agreements.

PUBLIC NOTIFICATION:

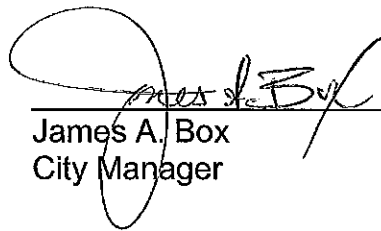
Through the agenda posting process.

Prepared by:



Stephen M. Parker, CPA
Administrative Services Director

Approved by:



James A. Box
City Manager

Attachment:

A. Resolution No. 2015-04

- Agreement for Preparation to Administer and Operate City's Transactions and Use Tax Ordinance (Exhibit A)
- Agreement for State Administration of City Transactions and Use Taxes (Exhibit B)

RESOLUTION NO. 2015-04

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON
AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS WITH THE
STATE BOARD OF EQUALIZATION FOR IMPLEMENTATION OF A LOCAL
TRANSACTIONS AND USE TAX**

WHEREAS, on November 4, 2014, the City Council approved Ordinance No. 1030 amending the City Municipal Code and providing for a local transactions and use tax; and

WHEREAS, the State Board of Equalization (Board) administers and collects the transactions and use taxes for all applicable jurisdictions within the state; and

WHEREAS, the Board will be responsible to administer and collect the transactions and use tax for the City; and

WHEREAS, the Board requires that the City enter into a "Preparatory Agreement" and an "Administration Agreement" prior to implementation of said taxes; and

WHEREAS, the Board requires that the City Council authorize the agreements.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STANTON THAT: THE "PREPARATORY AGREEMENT" ATTACHED AS EXHIBIT A AND THE "ADMINISTRATIVE AGREEMENT" ATTACHED AS EXHIBIT B ARE HEREBY APPROVED AND THE CITY MANAGER IS HEREBY AUTHORIZED TO EXECUTE EACH AGREEMENT DOES HEREBY INFORM AND NOTIFY OCTA THAT:

SECTION 1: The above recitals are true and correct.

SECTION 2: The "Preparatory Agreement" attached as Exhibit A and the "Administrative Agreement" attached as Exhibit B are hereby approved.

SECTION 3: The City Manager is hereby authorized to execute each agreement.

SECTION 4: The City Clerk shall certify as to the adoption of this Resolution.

ADOPTED, SIGNED AND APPROVED this 13th day of January, 2015.

ALEXANDER A. ETHANS, MAYOR

**AGREEMENT FOR PREPARATION TO ADMINISTER AND OPERATE
CITY'S TRANSACTIONS AND USE TAX ORDINANCE**

In order to prepare to administer a transactions and use tax ordinance adopted in accordance with the provision of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, the City of Stanton, hereinafter called *City*, and the STATE BOARD OF EQUALIZATION, hereinafter called *Board*, do agree as follows:

1. The Board agrees to enter into work to prepare to administer and operate a transactions and use tax in conformity with Part 1.6 of Division 2 of the Revenue and Taxation Code which has been approved by a majority of the electors of the City and whose ordinance has been adopted by the City.

2. City agrees to pay to the Board at the times and in the amounts hereinafter specified all of the Board's costs for preparatory work necessary to administer the City's transactions and use tax ordinance. The Board's costs for preparatory work include costs of developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing forms, developing instructions for the Board's staff and for taxpayers, and other appropriate and necessary preparatory costs to administer a transactions and use tax ordinance. These costs shall include both direct and indirect costs as specified in Section 11256 of the Government Code.

3. Preparatory costs may be accounted for in a manner which conforms to the internal accounting and personnel records currently maintained by the Board. The billings for costs may be presented in summary form. Detailed records of preparatory costs will be retained for audit and verification by the City.

4. Any dispute as to the amount of preparatory costs incurred by the Board shall be referred to the State Director of Finance for resolution, and the Director's decision shall be final.

5. Preparatory costs incurred by the Board shall be billed by the Board periodically, with the final billing within a reasonable time after the operative date of the ordinance. City shall pay to the Board the amount of such costs on or before the last day of the next succeeding month following the month when the billing is received.

6. The amount to be paid by City for the Board's preparatory costs shall not exceed one hundred seventy-five thousand dollars (\$175,000) (Revenue and Taxation Code Section 7272.)

7. Communications and notices may be sent by first class United States mail. Communications and notices to be sent to the Board shall be addressed to:

State Board of Equalization
P.O. Box 942879
Sacramento, California 94279-0032
Attention: Administrator, RAAS

Communications and notices to be sent to City shall be addressed to:

Stephen Parker
Director of Administrative Services
City of Stanton
7800 Katella Avenue
Stanton, CA 90680

8. The date of this agreement is the date on which it is approved by the Department of General Services. This agreement shall continue in effect until the preparatory work necessary to administer City's transactions and use tax ordinance has been completed and the Board has received all payments due from City under the terms of this agreement.

CITY OF STANTON

STATE BOARD OF EQUALIZATION

By _____
(Signature)

James A. Box
(Typed Name)

City Manager
(Title)

By _____
Brian Manuel, Administrator
Return Analysis & Allocation Section

(Rev. 11/14)

**AGREEMENT FOR STATE ADMINISTRATION
OF CITY TRANSACTIONS AND USE TAXES**

The City Council of the City of Stanton has adopted, and the voters of the City of Stanton (hereafter called "City" or "District") have approved by the required majority vote, the City of Stanton Transactions and Use Tax Ordinance (hereafter called "Ordinance"), a copy of which is attached hereto. To carry out the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code and the Ordinance, the State Board of Equalization, (hereinafter called the "Board") and the City do agree as follows:

**ARTICLE I
DEFINITIONS**

Unless the context requires otherwise, wherever the following terms appear in the Agreement, they shall be interpreted to mean the following:

1. "District taxes" shall mean the transactions and use taxes, penalties, and interest imposed under an ordinance specifically authorized by Revenue and Taxation code Section 7285.9, and in compliance with Part 1.6, Division 2 of the Revenue and Taxation Code.

2. "City Ordinance" shall mean the City's Transactions and Use Tax Ordinance referred to above and attached hereto, Ordinance No. 1030, as amended from time to time, or as deemed to be amended from time to time pursuant to Revenue and Taxation Code Section 7262.2.

**ARTICLE II
ADMINISTRATION AND COLLECTION
OF CITY TAXES**

A. Administration. The Board and City agree that the Board shall perform exclusively all functions incident to the administration and operation of the City Ordinance.

B. Other Applicable Laws. City agrees that all provisions of law applicable to the administration and operation of the State Sales and Use Tax Law which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code shall be applicable to the administration and operation of the City Ordinance. City agrees that money collected pursuant to the City Ordinance may be deposited into the State Treasury to the credit of the Retail Sales Tax Fund and may be drawn from that Fund for any authorized purpose, including making refunds, compensating and reimbursing the Board pursuant to Article IV of this Agreement, and transmitting to City the amount to which City is entitled.

C. Transmittal of money.

1. For the period during which the tax is in effect, and except as otherwise provided herein, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City periodically as promptly as feasible, but not less often than twice in each calendar quarter.

2. For periods subsequent to the expiration date of the tax whether by City's self-imposed limits or by final judgment of any court of the State of California holding that City's ordinance is invalid or void, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City not less than once in each calendar quarter.

3. Transmittals may be made by mail or electronic funds transfer to an account of the City designated and authorized by the City. A statement shall be furnished at least quarterly indicating the amounts withheld pursuant to Article IV of this Agreement.

D. Rules. The Board shall prescribe and adopt such rules and regulations as in its judgment are necessary or desirable for the administration and operation of the City Ordinance and the distribution of the district taxes collected thereunder.

E. Preference. Unless the payor instructs otherwise, and except as otherwise provided in this Agreement, the Board shall give no preference in applying money received for state sales and use taxes, state-administered local sales and use taxes, and district transactions and use taxes owed by a taxpayer, but shall apply moneys collected to the satisfaction of the claims of the State, cities, counties, cities and counties, redevelopment agencies, other districts, and City as their interests appear.

F. Security. The Board agrees that any security which it hereafter requires to be furnished by taxpayers under the State Sales and Use Tax Law will be upon such terms that it also will be available for the payment of the claims of City for district taxes owing to it as its interest appears. The Board shall not be required to change the terms of any security now held by it, and City shall not participate in any security now held by the Board.

G. Records of the Board.

When requested by resolution of the legislative body of the City under section 7056 of the Revenue and Taxation Code, the Board agrees to permit authorized personnel of the City to examine the records of the Board, including the name, address, and account number of each seller holding a seller's permit with a registered business location in the City, pertaining to the ascertainment of transactions and use taxes collected for the City. Information obtained by the City from examination of the Board's records shall be used by the City only for purposes related to the collection of transactions and use taxes by the Board pursuant to this Agreement.

H. Annexation. City agrees that the Board shall not be required to give effect to an annexation, for the purpose of collecting, allocating, and distributing District transactions and use taxes, earlier than the first day of the calendar quarter which commences not less than two months after notice to the Board. The notice shall include the name of the county or counties annexed to the extended City boundary. In the event the City shall annex an area, the boundaries of which are not coterminous with a county or counties, the notice shall include a description of the area annexed and two maps of the City showing the area annexed and the location address of the property nearest to the extended City boundary on each side of every street or road crossing the boundary.

ARTICLE III

ALLOCATION OF TAX

A. Allocation. In the administration of the Board's contracts with all districts that impose transactions and use taxes imposed under ordinances, which comply with Part 1.6 of Division 2 of the Revenue and Taxation Code:

1. Any payment not identified as being in payment of liability owing to a designated district or districts may be apportioned among the districts as their interest appear, or, in the discretion of the Board, to all districts with which the Board has contracted using ratios reflected by the distribution of district taxes collected from all taxpayers.

2. All district taxes collected as a result of determinations or billings made by the Board, and all amounts refunded or credited may be distributed or charged to the respective districts in the same ratio as the taxpayer's self-declared district taxes for the period for which the determination, billing, refund or credit applies.

B. Vehicles, Vessels, and Aircraft. For the purpose of allocating use tax with respect to vehicles, vessels, or aircraft, the address of the registered owner appearing on the application for registration or on the certificate of ownership may be used by the Board in determining the place of use.

ARTICLE IV

COMPENSATION

The City agrees to pay to the Board as the Board's cost of administering the City Ordinance such amount as is provided for by law. Such amounts shall be deducted from the taxes collected by the Board for the City.

ARTICLE V

MISCELLANEOUS PROVISIONS

A. Communications. Communications and notices may be sent by first class United States mail to the addresses listed below, or to such other addresses as the parties may from time to time designate. A notification is complete when deposited in the mail.

Communications and notices to be sent to the Board shall be addressed to:

State Board of Equalization
P.O. Box 942879
Sacramento, California 94279-0032
Attention: Administrator, RAAS

Communications and notices to be sent to the City shall be addressed to:

Stephen Parker
Director of Administrative Services
City of Stanton
7800 Katella Avenue
Stanton, CA 90680

Unless otherwise directed, transmittals of payment of District transactions and use taxes will be sent to the address above.

B. Term. The date of this Agreement is the date on which it is approved by the Department of General Services. The Agreement shall take effect on April 1, 2015. This Agreement shall continue until December 31 next following the expiration date of the City Ordinance, and shall thereafter be renewed automatically from year to year until the Board completes all work necessary to the administration of the City Ordinance and has received and disbursed all payments due under that Ordinance.

C. Notice of Repeal of Ordinance. City shall give the Board written notice of the repeal of the City Ordinance not less than 110 days prior to the operative date of the repeal.

ARTICLE VI
ADMINISTRATION OF TAXES IF THE
ORDINANCE IS CHALLENGED AS BEING INVALID

A. Impoundment of funds.

1. When a legal action is begun challenging the validity of the imposition of the tax, the City shall deposit in an interest-bearing escrow account, any proceeds transmitted to it under Article II. C., until a court of competent jurisdiction renders a final and non-appealable judgment that the tax is valid.

2. If the tax is determined to be unconstitutional or otherwise invalid, the City shall transmit to the Board the moneys retained in escrow, including any accumulated interest, within ten days of the judgment of the trial court in the litigation awarding costs and fees becoming final and non-appealable.

B. Costs of administration. Should a final judgment be entered in any court of the State of California, holding that City's Ordinance is invalid or void, and requiring a rebate or refund to taxpayers of any taxes collected under the terms of this Agreement, the parties mutually agree that:

1. Board may retain all payments made by City to Board to prepare to administer the City Ordinance.

2. City will pay to Board and allow Board to retain Board's cost of administering the City Ordinance in the amounts set forth in Article IV of this Agreement.

3. City will pay to Board or to the State of California the amount of any taxes plus interest and penalties, if any, that Board or the State of California may be required to rebate or refund to taxpayers.

4. City will pay to Board its costs for rebating or refunding such taxes, interest, or penalties. Board's costs shall include its additional cost for developing procedures for processing the rebates or refunds, its costs of actually making these refunds, designing and printing forms, and developing instructions for Board's staff for use in making these rebates or refunds and any other costs incurred by Board which are reasonably appropriate or necessary to make those rebates or refunds. These costs shall include Board's direct and indirect costs as specified by Section 11256 of the Government Code.

5. Costs may be accounted for in a manner, which conforms to the internal accounting, and personnel records currently maintained by the Board. The billings for such costs may be presented in summary form. Detailed records will be retained for audit and verification by City.

6. Any dispute as to the amount of costs incurred by Board in refunding taxes shall be referred to the State Director of Finance for resolution and the Director's decision shall be final.

7. Costs incurred by Board in connection with such refunds shall be billed by Board on or before the 25th day of the second month following the month in which the judgment of a court of the State of California holding City's Ordinance invalid or void becomes final. Thereafter Board shall bill City on or before the 25th of each month for all costs incurred by Board for the preceding calendar month. City shall pay to Board the amount of such costs on or before the last day of the succeeding month and shall pay to Board the total amount of taxes, interest, and penalties refunded or paid to taxpayers, together with Board costs incurred in making those refunds.

CITY OF STANTON

STATE BOARD OF EQUALIZATION

By _____
(Signature)

By _____
Brian Manuel, Administrator
Return Analysis & Allocation Section

James A. Box
(Typed Name)

City Manager
(Title)

ORDINANCE NO. 1030

AN ORDINANCE OF THE PEOPLE OF THE CITY OF STANTON, CALIFORNIA, ADDING CHAPTER 3.05 TO THE STANTON MUNICIPAL CODE TO IMPOSE A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

WHEREAS, due to Sacramento takeaways, Stanton has lost almost \$18 million in local tax dollars, is continuing to lose another \$4 million every year, and now faces a \$1.8 million structural budget deficit; and

WHEREAS, this measure ensures that our city has a guaranteed source of funding for local services that cannot be taken by Sacramento, and requires that our tax dollars are spent locally for Stanton residents; and

WHEREAS, public safety is a top priority in Stanton and represents over 70% of the City's General Fund budget, and without a local funding source the City will be forced to significantly cut public safety services, including gang and drug prevention; neighborhood police patrols; police officer staffing at local schools; and consider reducing firefighting services; and

WHEREAS, this measure helps to maintain firefighters and paramedics, and keep rapid 9-1-1 emergency response times so that people suffering from heart attacks, strokes or other medical emergencies continue to receive the immediate, life-saving care they need; and

WHEREAS, our community has a history of gang problems, and this measure will enable the City to continue to provide gang and youth violence prevention and intervention programs and keep police officers in schools to keep kids off the streets, out of trouble and away from gangs and drugs; and

WHEREAS, we need to do more to stimulate local economic growth and create more good-paying local jobs for residents, and additional funds will help Stanton remain attractive to businesses, visitors and homebuyers by fixing blight and filling vacant storefronts with new businesses, strengthening local property values; and

WHEREAS, this measure will not be charged on food purchased as groceries or prescription medication, limiting its impact on Stanton residents; and

WHEREAS, this measure includes tough fiscal accountability and transparency, including requiring annual independent financial audits and publishing the entire City budget online to make sure the City accounts for every dollar it spends; and

WHEREAS, pursuant to California Revenue and Taxation Code Section 7285.9 the City of Stanton ("City") has the authority to levy a Transactions and Use Tax for general purposes; and

WHEREAS, the people of the City desire to levy a one cent (1%) Transactions and Use Tax for general purposes to fund essential City services, including public safety services; and

WHEREAS, the people of the City believe that only a locally-approved voter funding source would guarantee that new revenue stays in Stanton to help the City provide essential services to its residents; and

WHEREAS, the City's Transactions and Use Tax Ordinance is necessary to protect the public's health, safety, and welfare and will be added to the Stanton Municipal Code as Chapter 3.05; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Title. This ordinance shall be known as the Stanton Transactions and Use Tax Ordinance, the text of which is set forth in Attachment A, attached hereto.

Section 2. Operative Date. "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

Section 3. Approval by the Voters. Pursuant to California Elections Code section 9217, this Ordinance shall take effect only if approved by a majority of the eligible voters of the City of Stanton voting at the Regular Election of November 4, 2014, and shall take effect ten (10) days after the City Council has certified the results of that election by resolution.

Section 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

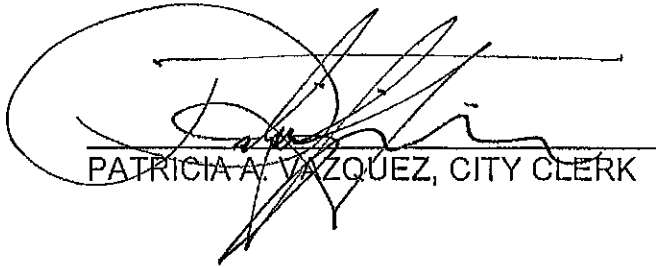
I hereby certify that the Stanton Transactions and Use Tax Ordinance was **PASSED, APPROVED, AND ADOPTED** by the people of the City of Stanton on this 4th day of November, 2014.

CITY OF STANTON



RIGOBERTO A. RAMIREZ, MAYOR

ATTEST:



PATRICIA A. VAZQUEZ, CITY CLERK

APPROVED AS TO FORM



MATTHEW E. RICHARDSON, CITY ATTORNEY

Attachment "A"

Chapter 3.05- Transactions and Use Tax

Sections:

- 3.05.010 - Purpose.**
- 3.05.020 - Contract With State.**
- 3.05.030 - Transactions Tax Rate.**
- 3.05.040 - Place of Sale.**
- 3.05.050 - Use Tax Rate.**
- 3.05.060 - Adoption of Provisions of State Law.**
- 3.05.070 - Limitations on Adoption of State Law and Collection of Use Taxes.**
- 3.05.080 - Permit Not Required.**
- 3.05.090 - Exemptions and Exclusions.**
- 3.05.100 - Amendments.**
- 3.05.110 - Enjoining Collection Forbidden.**

Sections:

3.05.010 - Purpose.

This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
- B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.
- C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

- D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

3.05.020 - Contract With State.

Prior to the operative date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3.05.030 - Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one cent (1%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

3.05.040 - Place of Sale.

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

3.05.050 - Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one cent (1%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.05.060 - Adoption of Provisions of State Law.

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

3.05.070 - Limitations on Adoption of State Law and Collection of Use Taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:
1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;
 2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.
 3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
 - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;
 - b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.
 4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
- B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

3.05.080 - Permit not Required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

3.05.090 - Exemptions and Exclusions.

- A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- B. There are exempted from the computation of the amount of transactions tax the gross receipts from:
 - 1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
 - 2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:
 - a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
 - 3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.
 5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:
1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
 2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
 3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.
 4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.
 5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.
 7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.
- D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.05.100 - Amendments.

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

The City Council, by unanimous vote of the full Council, may lower the rate of the retail transactions and use tax adopted by this Chapter to 0%.

3.05.110 - Enjoining Collection Forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: January 13, 2015

SUBJECT: A PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE STANTON MUNICIPAL CODE AND ZONING CODE PERTAINING TO THE REGULATION OF MASSAGE ESTABLISHMENTS AS AN URGENCY ORDINANCE

REPORT IN BRIEF:

In September 2014, the Governor signed Assembly Bill ("AB 1147") which restored municipal land use regulatory authority over all massage establishments, including ones that employ State-certified massage therapists. To establish new land use and licensing regulations consistent with AB 1147, and to address the issues and violations that have been documented at massage establishments based on City inspections, an urgency ordinance is proposed to amend portions of Title 5 (Business Licensing and Regulations) and Title 20 (Zoning) to immediately establish new permitting and licensing requirements, operational, sanitation, and attire regulations, and an amortization schedule for existing massage businesses to come into compliance with the new regulations.

State law authorizes cities to adopt urgency ordinances that are effective immediately if the ordinance is for the "immediate preservation of the public peace, health or safety" and is approved by four-fifths vote of the City Council. (Gov. Code § 36937.) This ordinance is also being presented to the City Council as a regular, non-urgency item as a best practice against any future legal challenges.

RECOMMENDED ACTION:

1. City Council conduct a public hearing; and
2. Declare that the projects are exempt from CEQA under Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly); and
3. Adopt Ordinance No. 1031, entitled:

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, AMENDING CHAPTER 5.16, ARTICLE I (MASSAGE ESTABLISHMENTS), SECTION 20.215.020 (COMMERCIAL ZONES), SECTION 20.320.030 (OFF-STREET PARKING), SECTION 20.400.190 (MASSAGE ESTABLISHMENTS) AND SECTION 20.620.060 (NONCONFORMING USES) OF THE STANTON MUNICIPAL CODE AND DELETING CHAPTER 5.16, ARTICLE II (MASSAGE TECHNICIANS) FROM THE STANTON MUNICIPAL CODE

BACKGROUND:

In 2008, the Governor approved Senate Bill SB 731 ("SB 731"), which, in part, removed land use regulatory rights from cities for massage uses. Specifically, public agencies like the City were precluded from imposing zoning and licensing regulations upon massage establishments that exclusively employ State-certified massage therapists.

This legislative action resulted in a steep increase in massage establishments locating in the City, which at its high, had thirty-six (36) licensed massage establishments. Currently, there are thirty-four (34) licensed massage establishments in the City. All of the establishments that have begun operations in the City under SB 731 have been inspected by City staff and the Sheriff's department in recent years, and all but one have been found to be out of compliance with the City's municipal code and/or State laws requiring licenses for all technicians. A number of the businesses also advertise on websites that are known to be used by persons seeking illegal sexual activity, and some businesses allude to such activities in their advertisements.

To address the numerous issues that have arisen from the passage of SB 731, in September 2014, the Governor signed AB 1147, which reinstated municipal land use regulatory powers over all massage establishments, including ones that employ State-certified massage therapists. The new law provides, "the intent of the Legislature is that broad control over land use in regulating massage establishments be vested in local governments so that they may manage those establishments in the best interests of the individual community, and that the requirements and practice of the profession of massage remain a matter of statewide concern, regulation, and oversight." (Business & Professions Code 4600.5(b)). AB 1147 became effective on January 1, 2015.

ANALYSIS/JUSTIFICATION:

To address the issues that have arisen since the passage of SB 731 and the resulting increase in massage establishments in the City, amendments to the City's Municipal Code and Zoning Code are proposed. The amendments would: re-establish a conditional use permit ("CUP") requirement for massage establishments, create establishment regulations concerning operations, sanitation and attire, and set forth an amortization schedule for existing massage establishments in the City to obtain the newly required conditional use permit.

Zoning and Land Use – The proposed Zoning Code regulations for massage establishments were prompted, in part, by operations of existing massage establishments within the City. Based on inspections conducted by City staff and the Sheriff's department of existing establishments, violations have been observed, including but not limited to:

1. Illegal tenant improvements to create massage rooms, including plumbing for table showers.
2. Unauthorized massage technicians and personnel.
3. Violations of employment and labor laws, including "under the table" compensation and failure to secure worker's compensation insurance.
4. Unsanitary facility conditions, including unwashed sheets, and trash and used contraceptive devices found on the floors.
5. Massage technicians dressed inappropriately, including exposure of specified anatomical areas.
6. Massage technicians or other persons that hide on the premises or flee the business upon City inspection.
7. Establishments that operate beyond the approved hours of operation, without obtaining a CUP to extend hours.
8. Use of the business as a residence.
9. Installation of illegal signage.
10. Refusal to allow inspections of the establishment by City personnel.

Currently, to be in compliance with SB 731, massage establishments that only employ State-certified massage therapists are permitted in any commercial zone. Under the proposed ordinance, all massage establishments would be limited to operating in the CG (Commercial General) zone, subject to approval of a conditional use permit. Currently, there are twenty-one (21) massage establishments operating in the CG zone. Massage establishments would be prohibited in every other zone of the City, including the CN (Commercial Neighborhood) zone. There are currently thirteen (13) massage establishments operating in the CN zone.

The intent of the CN zone is to provide "areas appropriate for small-scale commercial service uses and neighborhood shopping centers that serve residents in immediate surrounding neighborhoods." Typical land uses permitted in the CN zone include drug stores, hardware stores, offices, child-care and community facilities. The CN zone is typically adjacent to residential neighborhoods, and the general uses permitted are intended to service the immediate neighborhoods. In contrast, the CG zone allows for a much wider range of retail sales, entertainment, and commercial service uses.

Based on the observed operations of the existing massage establishments, and conversations with existing massage establishment owners, the majority of the massage services are provided during the later evening hours, after normal business operating hours. This may result in higher volumes of traffic and noise levels generated from the business after regular business operating hours, which, along with the

violations noted above, may negatively impact the residential neighborhoods directly adjacent to the massage establishments in the CN zone. As such, it is proposed that massage establishments be prohibited in the CN zone. If the proposed Zoning amendment is passed, existing establishments in the CN zone would be subject to an amortization schedule, as discussed below.

Further, to address known and anticipated impacts of the massage use in the CG zone, it is proposed to require a conditional use permit for all new and existing massage establishments in that zone. In addition, if a conditional use permit is approved by the Planning Commission, the owner and operator of a massage establishment would be required to obtain a Massage Establishment License pursuant to SMC Title 5 (Business Licenses and Regulations). The conditional use permit requirement is to ensure that the City considers the proposed use in context with the surrounding areas and to ensure any known and anticipated impacts caused by the land use would be appropriately conditioned to reduce said impacts.

The Massage Establishment License would, in part, ensure that the proposed operator of the massage establishment has not been convicted of any crimes related to prostitution, human trafficking or similar violations, clearly identify management staff in charge of the facility, identify all employees, and set forth penalties if the massage establishment violates the provisions of the CUP or the Establishment License. The Massage Establishment License regulations are found in Title 5 (Business Licenses and Regulations).

Establishment Regulations – Based on inspections of the existing massage establishments in the City, staff is proposing to add specific regulations regarding how the facility should be constructed, along with operational, sanitation, and attire requirements. Examples of the proposed regulations include:

1. The storefront windows of the massage establishment shall be transparent to provide clear visibility into the unit. The windows shall not be obscured by curtains, blinds, or other temporary devices during operating hours.
2. Hours of operation shall be limited to the hours of 9:00 a.m. to 10:00 p.m. daily. The hours of operation shall be clearly displayed within a common area of the facility, or may be displayed as a form of window signage in compliance with Chapter 20.325 (Sign Standards).
3. No person shall give, or assist in giving, any massage or other body treatment to any other person under the age of eighteen (18) years, unless the parent or guardian of the minor person has consented thereto in writing.
4. Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided.
5. Clean and sanitary towels and linens shall be provided for each patron of the establishment or each patron receiving massage services. No common use of towels or linens shall be permitted.

For a complete list of the proposed regulations, please refer to Exhibit "B" of Ordinance No. 1032.

Amortization of Existing Businesses – The proposed Zoning Code regulations would require a CUP to be obtained for all new and existing massage establishments. As such, to ensure that existing massage establishments apply for a CUP within an appropriate amount of time and allow them to recoup any investments in the business in case they choose not to apply, or are denied a CUP, an amortization schedule is proposed. For massage establishments that are eligible to obtain a conditional use permit, the establishment would have two (2) years to obtain both a CUP and Massage Establishment License. For the existing businesses that would not be eligible to obtain a CUP, due to the location of the business being in a zone where massage establishments are no longer permitted, the affected establishment would have two (2) years to operate as a legal nonconforming business to allow an appropriate amount of time to recoup costs associated with the establishment and operation of the business. Existing establishments would have the ability to apply for an extension of the amortization period if they can show certain hardships, including a long-term lease or an extraordinary financial investment in the business.

Urgency Ordinance – Government Code Section 36937 authorizes public agencies like the City to adopt ordinances that are immediately effective if they are to preserve the public peace, health or safety. As described in this report, the City has grappled with numerous State and local violations occurring at massage establishments in the City. As such, this Ordinance is proposed as an urgency ordinance to protect massage establishments, their operators, employees, contractors, neighborhoods and the public at large from these serious violations. In order for the urgency ordinance to be effective, four-fifths of the City Council are required to approve the ordinance.

As a best practice, the same ordinance relating to massage establishments will also be presented to the Council as a regular, non-urgency ordinance.

FISCAL IMPACT:

None. The ordinance would establish a requirement for approval of a conditional use permit for new and existing massage establishments. The funds received for any applications would cover the costs of staff time to process the applications.

ENVIRONMENTAL IMPACT:

The project is exempt from CEQA under Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly).

PUBLIC NOTIFICATION:

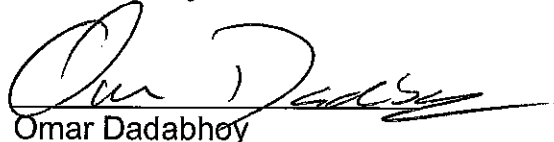
Public notice for this item was made through the regular agenda process, and published in a local newspaper.

Prepared By:



Kelly Hart
Associate Planner

Reviewed By:



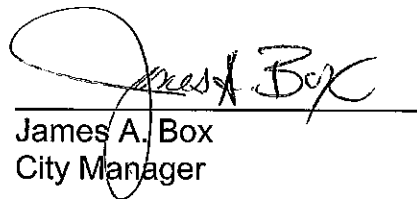
Omar Dadabhoy
Community and Economic
Development Director

Concurred By:



Matthew E. Richardson
City Attorney

Approved By:



James A. Box
City Manager

Attachments:

A. Ordinance No. 1031

URGENCY ORDINANCE NO. 1031

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, AMENDING CHAPTER 5.16, ARTICLE I (MASSAGE ESTABLISHMENTS), SECTION 20.215.020 (COMMERCIAL ZONES), SECTION 20.320.030 (OFF-STREET PARKING), SECTION 20.400.190 (MASSAGE ESTABLISHMENTS) AND SECTION 20.620.060 (NONCONFORMING USES) OF THE STANTON MUNICIPAL CODE AND DELETING CHAPTER 5.16, ARTICLE II (MASSAGE TECHNICIANS) FROM THE STANTON MUNICIPAL CODE

WHEREAS, Article 11, Section 7 of the California Constitution authorizes the City of Stanton ("City") to make and enforce within its limits all ordinances and regulations not in conflict with general laws; and

WHEREAS, in 2008, the Legislature adopted Senate Bill 731, which created the California Massage Therapy Council, a state-organized nonprofit organization with regulatory authority over the certification of massage practitioners throughout the State of California; and

WHEREAS, Senate Bill 731 also limited the City's regulatory authority over massage establishments that exclusively hire State-certified massage technicians, preempting most local licensure and permitting requirements and land use regulations; and

WHEREAS, the City amended the Stanton Municipal Code ("SMC") to comply with the regulations set forth in Senate Bill 731; and

WHEREAS, Senate Bill 731 has been widely criticized by local agencies as providing massage businesses with almost unprecedented protection from local zoning and land use authority, and interfering with local law enforcement efforts to close massage businesses that allow prostitution and other illegal activities; and

WHEREAS, prior to the passage of Senate Bill 731, the City contained one licensed massage technician who operated from a doctor's office. Following the passage of Senate Bill 731, a total of 34 massage establishments located in the City; and

WHEREAS, the increased number of massage establishments that have located in the City have resulted in an increase of police and code enforcement calls for service to many of those massage establishments. Some of those establishments are suspected of allowing sexually explicit activity to take occur on the premises, including prostitution; and

WHEREAS, during City inspections of some existing massage establishments, City inspectors found violations including illegal tenant improvements to create

massage rooms, including plumbing for table showers, unauthorized massage technicians and personnel, violations of employment and labor laws, including establishments' failure to secure worker's compensation insurance, unsanitary facility conditions, including unwashed sheets and trash, including used contraceptive devices, massage technicians dressed inappropriately, including the exposure of specified anatomical areas, establishments operating beyond approved hours of operation, persons using the establishments as a residence, installation of illegal signage, and employees refusing to allow City inspections of the establishments; and

WHEREAS, the illicit and illegal activities detailed in the above recitals at massage establishments in the City pose immediate health and safety threats to the establishments, its operators, employees, patrons, surrounding businesses, and the public; and

WHEREAS, Assembly Bill 1147, signed recently by Governor Jerry Brown, was created in response to criticism against Senate Bill 731 and allows local agencies to impose reasonable zoning, business licensing, and health and safety requirements on massage establishments. Assembly Bill 1147 went into effect on January 1, 2015; and

WHEREAS, the City wishes to amend the Stanton Municipal Code to ensure that the City regulates massage establishments in compliance with the provisions of Assembly Bill 1147; and

WHEREAS, the City is also authorized by Government Code Section 51030 *et seq.*, to regulate massage establishments by imposing reasonable standards relative to the skill and experience of massage operators and massage technicians, and reasonable conditions on the operation of the massage establishments; and

WHEREAS, Section 36937 of the Government Code authorizes the City Council to adopt an ordinance that will take effect immediately if it is an ordinance for the immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency, and is passed by a four-fifths (4/5) vote of the City Council; and

WHEREAS, the public peace, health, safety, and welfare require immediate revisions to SMC ordinances relating to massage establishments and massage technicians to ensure that nuisance activities occurring at massage establishments in the City are properly regulated and cease;

WHEREAS, all legal prerequisites prior to the adoption of this ordinance have occurred.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON DOES ORDAIN AS FOLLOWS:

SECTION 1: Urgency Findings. The City Council hereby incorporates by reference the recitals of this urgency ordinance. The City Council finds that this urgency ordinance is necessary to promote the immediate preservation of the public peace, health and safety by ensuring that massage establishments and massage technicians are properly regulated so that public nuisances, including unlawful, sexually explicit activities cease at all massage establishments in the City. This is a matter of importance to the entire City of Stanton, and is not directed at any particular property.

SECTION 2: Chapter 5.16, Article I. Chapter 5.16, Article 1 of the Stanton Municipal Code is hereby amended and restated in its entirety, as set forth in Exhibit "A" ("Chapter 5.16, Massage Establishments and Massage Technicians"), attached hereto and incorporated herein.

SECTION 3: Chapter 5.16, Article II. Chapter 5.16, Article II of the Stanton Municipal Code is hereby deleted in its entirety.

SECTION 4: Section 20.215.020. The reference to "Massage Establishments" in Section 20.215.020, Table 2-5 of the Stanton Municipal Code is hereby amended to read as follows:

Land Use	CNI	CG	Specific Use Regulations
<i>Service Uses – General</i>			
Massage Establishments	P(1) –	P(1) CUP	MC 5.16; 20.400.190200
Late Hour Operations	CUP	CUP	

Notes:

1) ~~A Conditional Use Permit shall be required if not all persons engaged in the practice of massage therapy at the establishment have a valid MTO (Massage Therapy Organization) Certificate or the State law regulating massage establishments terminates under its sunset review provision (Business and Professions Code Section 4600 et seq.).~~

SECTION 5: Section 20.320.030. The reference to "Massage Establishments" in Section 20.320.030, Table 3-6 of the Stanton Municipal Code is hereby amended to read as follows:

Table 3-6 Off Street Parking Space Requirements	
Description of Use	Required Number of Spaces (1) See Section 20.320.030.B (Calculation Metrics)
<i>Service Uses – General</i>	
Massage Establishments	1 space/200 square feet or as required

SECTION 6: Section 20.400.190. Section 20.400.190 of the Stanton Municipal Code is hereby amended and restated in its entirety, as set forth in Exhibit "B" ("Massage Establishments"), attached hereto and incorporated herein.

SECTION 7: Section 20.620.060. Subsection (A)(8) is hereby added to Section 20.620.060 of the Stanton Municipal Code to read as follows:

"8. Massage Establishments. For provisions on nonconforming massage establishments, see Section 20.400.190 (Massage Establishments)."

SECTION 8. CEQA. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 9: Location and Custodian of Records. The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at Stanton City Hall, 7800 Katella Ave., Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 10: Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Stanton hereby declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases may be declared invalid or unconstitutional.

SECTION 11: Effective Date. This Urgency Ordinance was adopted by the necessary four-fifths vote of the members of the City Council pursuant to Government Code sections 36934 and 36937 and shall take effect immediately upon its adoption.

PASSED, APPROVED, and ADOPTED this 13th day of January, 2015.

ALEXANDER A. ETHANS, MAYOR

ATTEST:

LUZ A. RODRIGUEZ, INTERIM CITY CLERK

APPROVED AS TO FORM

MATTHEW E. RICHARDSON, CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF STANTON)

I, LUZ A. RODRIGUEZ, Interim City Clerk of the City of Stanton, California, do hereby certify that the foregoing Urgency Ordinance No. 1031 was introduced and adopted at a regular meeting of the City Council of the City of Stanton, California, held on the 13th day of January, 2015 by the following roll-call vote, to wit:

AYES: COUNCILMEMBERS: _____

NOES: COUNCILMEMBERS: _____

ABSENT: COUNCILMEMBERS: _____

ABSTAIN: COUNCILMEMBERS: _____

INTERIM CITY CLERK, CITY OF STANTON

Exhibit "A"

Title 5, Chapter 5.16 (Massage Establishments and Massage Technicians)

Section 5.16.010 – Definitions

For the purposes of carrying out the intent of this Chapter, unless the content clearly indicates to the contrary, the following words, phrases, and terms shall have the following meanings:

Accessory massage establishment. An establishment that provides massage which is incidental to the primary business, where the owner of the primary business is responsible for the massage services and conduct of the massage technician(s) employed at the location.

Applicant. Any person or entity desiring to obtain a license to operate a massage establishment, and includes each and every owner of the proposed establishment, including:

1. **Sole Proprietorship.** A sole proprietorship, also known as a sole trader or simply proprietorship, is a type of business entity that is owned and run by one individual or one legal person and in which there is no legal distinction between the owner and the business.
2. **Corporations.** If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation, together with the names and residence addresses of each of the officers, directors, and each and every majority stockholder. In addition, a certified copy of its articles of incorporation, together with any authorizations to issue stock shall be attached to the application.
3. **Partnerships.** If the applicant is a partnership, the application shall set forth the name and residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply. If the applicant is a partnership, a certified copy of the partnership agreement, if there be one, shall be attached to the application, and if the applicant be a limited partnership, a certified copy of its certificate of limited partnership shall be attached to the application.
4. If a corporation or a partnership is an applicant, then the identifying information required in this section as to the "applicant" shall be provided also as to such stockholders, directors and/or partners as the case may be and a license may be issued or denied if such stockholders, directors and/or partners do or do not satisfy the requirements and standards imposed by this chapter as to the background and character of the "applicant."

California Massage Therapy Council. The non-profit organization formed pursuant to Business and Professions Code Chapter 10.5, commencing with section 4600, as amended. The organization may be referred to hereinafter as "CAMTC".

City. The city of Stanton.

City Manager. The City Manager and/or those officers, employees, and agents of the city, directed by the City Manager to carry out all or portions of this chapter.

Compensation. A payment, loan, advance, donation, contribution, or gift of money, of anything of value.

Completed application. An application packet which contains all of the information required pursuant to this chapter, together with the verified fingerprints of the applicant(s).

Disqualifying conduct. Conduct by the applicant that would disqualify the application for a massage establishment, including any of the following:

1. Within five years of the date of filing of the application in question or any time after the filing of the application and/or any time after the issuance of a license, the licensee has been convicted in a court of competent jurisdiction of:
 - a. Any crime specified in Government Code section 51030 et seq., or
 - b. Any misdemeanor or felony offense which relates directly to the operation of a massage establishment, whether as a massage establishment owner, operator, massage technician, or employee thereof; or
2. Within five years of the date of the filing of the application in question or any time after the filing of the application and/or any time after the issuance of a license, the licensee has had revoked any massage establishment, operator, massage practitioner, technician, therapist, trainee, or similar license issued by the state, or any county or city; or
3. Within five years of the date of the filing of the application in question or any time after the filing of the application and/or any time after the issuance of a license, the licensee has been convicted in a court of competent jurisdiction of:
 - a. Any violation of California Penal Code sections 266(h), 315, 316, and 318 or Sections 647(b) or 653.23, or
 - b. Conspiracy or attempt to commit any such offense, or
 - c. Any offense in a jurisdiction outside the state which is the equivalent of any of the aforesaid offenses, or
 - d. Has been found guilty of or pleaded nolo contendere to any lesser-included offense of the above, or
 - e. Has been found guilty of or pleaded nolo contendere to any crime specified in Government Code section 51030 et seq.; or
4. Is required to register under the provisions of California Penal Code section 290; or
5. Has been subjected to a permanent injunction against the conducting or maintaining of a nuisance pursuant to California Penal Code sections 11225 through 11235; or

6. Has engaged in, or allowed an employee or massage technician under supervision to engage in, touching the specified anatomical areas of oneself or of another person while providing massage services or while within view of a customer or patron of the massage establishment, or engaging in specified sexual acts with oneself or another person while providing massage services or while within view of a customer or patron of the massage establishment; or
7. Has engaged in, or allowed an employee or massage technician under supervision to engage in, the exposing specified anatomical areas of oneself or of another person to view while providing massage services or while within view of a customer or patron of the massage establishment.

Employee. Any and all persons, other than a massage technician, who may render any service to the licensee, and who receives compensation from the licensee or an agent, and who does not perform massages on the patrons.

Licensee. An individual, partnership, corporation or other entity that has been approved for a massage establishment license.

Manager. An individual who manages or who is otherwise primarily responsible for the operation of the massage establishment, and shall include each and every person responsible for establishing personnel policy, hiring personnel, ensuring that the establishment complies with the requirements of this code and of other laws, and of establishing and administering any and all policies established by the owner for the operation of the establishment.

Massage. The scientific manipulation of the soft tissues, including but not limited to any method of treating any of the external parts of the body for remedial, health or hygienic purposes by means, including but not limited to, rubbing, stroking, pressuring, acupressuring, kneading, tapping, pounding, vibrating or stimulating with the hands, feet, elbows or any other part of the body, with or without the aid of any instrument or device and with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparations commonly used in this practice, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or any gratuity therefor.

Massage establishment. A fixed location where massage is performed for compensation.

Massage establishment license. A license issued by the City to a massage establishment to conduct massage from a location with an approved conditional use permit for the operation of a massage use.

Massage technician. Any massage practitioner or massage therapist who administers to another person, for any form of compensation, a massage or other similar procedure, and who is certified by the State of California in compliance with the California Massage Therapy Act.

Person. Any individual, sole proprietorship, firm, partnership, corporation, association or any combination of individuals of whatever form or character.

Sole Provider. A massage business where the owner owns 100 percent of the business, is the only person who provides massage services for compensation for the business pursuant to a valid and active certificate issued in accordance with the California Massage Therapy Act, and has no other employees, certified massage technicians, massage technicians, or independent contractors.

Specified anatomical areas. Means and includes any of the following human anatomical areas:

Genitals, pubic area, buttocks, anus or female breasts below a point immediately above the top of the areolae.

Specified sexual activities. Means and includes any of the following:

1. The fondling or other erotic touching of any bare human genitals, pubic area, buttocks, anus or female breast;
2. Human sex acts, actual or simulated, including intercourse, oral copulation or sodomy;
3. Human masturbation, actual or simulated;
4. The actual or simulated infliction of pain by one human upon another or by an individual upon himself or herself, for the purpose of the sexual gratification or release of either individual, as a result of flagellation, beating, striking or touching of an erogenous zone, including without limitation, the thigh, genitals, buttock, pubic area, or, if such person is a female, a breast;
5. Sex acts, actual or simulated, between a human being and an animal, including but not limited to intercourse, oral copulation, or sodomy; or
6. Excretory or urinary functions as part of, or in connection with, any of the activities set forth in subsections (1) through (5) of this definition.

5.16.020 – Applicability

A. When Required. A Massage Establishment License shall be required for fixed locations within the city that provide massage services as defined within this Chapter. It is unlawful for any person to operate or conduct a massage business or to permit a massage establishment to be operated or conducted, in or upon any premises within the city, or to render a massage or permit a massage to be rendered within the city at any location not licensed as a massage establishment, in accordance with the provisions set forth in this chapter.

B. Exceptions. The following are exempt from the requirement for a Massage Establishment License:

1. Sole Providers of massage as defined and set forth in this Chapter and in compliance with the California Massage Therapy Act.
2. Accessory Massage Establishments. A Massage Establishment License shall not be required for accessory massage establishments in compliance with this Chapter.

C. Exemptions. The provisions of this chapter shall have no application and no effect upon and shall not be construed as applying to the following:

1. Treatment administered in good faith in the course of practice of any healing art or profession by any person licensed to practice any such art or profession under the Business and Professions Code of the state of California, or any other law of this state, including physicians, surgeons, chiropractors, osteopaths, podiatrists and physical therapists;
2. Nurses registered under the laws of the state of California;
3. Barbers, estheticians and beauticians who are duly licensed under the laws of the state of California while engaging in practices within the scope of their licenses;
4. Hospitals, nursing homes, sanatoriums, or other health facilities duly licensed by the state of California;
5. Coaches and trainers in accredited high schools, junior colleges and colleges or universities acting within the scope of their employment;
6. Trainers of amateur, semi-professional or professional athletes or athletic teams so long as such persons do not practice massage therapy as their primary occupation at any location where they provide such services in the city; or
7. Any profession over which the state has assumed exclusive jurisdiction as a matter of statewide concern and which gives the services or treatments included in the term "massage," as herein defined, as incidents to such business, calling or profession.

5.16.030 – Review Authority

- A. The City Manager shall approve or disapprove an application for a Massage Establishment License.
- B. The City Manager may choose to refer any application for a Massage Establishment License to the City Council for review and final decision.

5.16.040 – Application filing and content

A. Application filing.

1. An application for a Massage Establishment License shall be filed and processed in compliance with this chapter.
2. The applicant shall include the information and materials specified in this chapter, and specified in the City handout for Massage Establishment applications, together with the required fee in compliance with the fee resolution adopted by the City Council.
3. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 5.16.050 (Application review and decision).

B. Application Content. Any applicant requesting a license pursuant to this section shall submit the following:

1. The present or proposed address where the business is to be conducted;
2. The type of ownership of the business (i.e., Sole Proprietorship, Partnership, Corporation, etc.);
3. The exact name, including any fictitious name, if applicable, under which the business is to be operated;
4. Every applicant for a license, whether an individual or combination of individuals, and each partner or limited partner of an applicant, if a partnership applicant, and every officer, director, and each stockholder holding ten percent or more of the stock of a corporate applicant, shall furnish the following information:
 - a. The full name, date of birth, current residential address, business address, and telephone numbers,
 - b. California driver's license number or California identification number and social security number or resident alien number, if any,
 - c. Any other names or aliases, including nicknames, used within five years of the date of filing the application,
 - d. Each residence and business address for the five years immediately prior to the date of filing the application, and the inclusive dates of each such address,
 - e. Written proof that the applicant is over the age of eighteen years,
 - f. The applicant's height, weight and color of eyes,
 - g. Two portrait photographs at least two inches by two inches and shall have been taken within sixty days prior to filing the application,
 - h. The massage or similar business license or permit history of the applicant, whether such person, in previously operating in this or another city or state under license or permit, has had such license or permit revoked or suspended and the reason therefor; and the business activity or occupation subsequent to such action of suspension or revocation,
 - i. The name and address of any massage business or other establishment currently owned or operated by the applicant wherein the business of massage is conducted,
 - j. Any conviction, forfeiture of bond, or plea of nolo contendere upon any criminal violation or city ordinance violation (except minor traffic violations), within a five-year period, and, if so, the place and court in which such conviction, plea or forfeiture was heard, the specific charge, and the sentence imposed as a result thereof,
 - k. Whether the applicant has ever been convicted of any crime specified in Section 51032 of the Government Code and, if so, the circumstances thereof and the sentence therefor, and

- I. The applicant shall be required to furnish fingerprints for the purpose of establishing identification, and verify through a background check the information provided in the application is true and correct. Any required fingerprinting fee will be the responsibility of the applicant;
5. A description of the service(s) to be provided;
6. A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant;
7. A complete list of the names, including any pseudonym, alias(es), alternate name(s), or nickname(s), and residential addresses of all massage technicians, employees, independent contractors and attendants in the business; the name and residential address of the operator, manager or other person principally in charge of the operation of the business; and the names and residential addresses of all principals of the business;
8. The name and address of the record owner and lessor of the real property upon or in which the massage establishment is to be conducted, and a copy of the lease or rental agreement;
9. The name(s) of person(s) having the management or supervision of the applicant's massage establishment;
10. Written authorization for the city, its agents and employees, to seek information and conduct an investigation in to the truth of the statements set forth in the application and the qualifications of the applicant for the permit;
11. A sketch or diagram showing the complete interior configuration of the business, including without limitation the location of the restrooms, massage rooms, customer areas, employee only designated areas, and any facility requirements as identified in Section 20.400.190 (Massage Establishments). The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale, with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches;
12. A signed statement that the massage business owner and/or applicant shall be responsible for the conduct of all employees, massage technicians and independent contractors working on the premises of the massage establishment and that failure to comply with California Business and Professions Code Section 4600 et seq., with any local, state, or federal law, or with the provisions of this chapter or Title 20 may result in the revocation of the city-issued permit.
13. If the applicant is a natural person, that person shall sign the application under penalty of perjury. If the applicant is other than a natural person, a partner, officer, director, major shareholder or major interest holder of the legal entity shall sign the application under penalty of perjury;
14. If the applicant does not own the lot or parcel on which the massage business will operate, the owner shall consent to the filing of the application by signing and dating the application;
15. Such other identification and information as may be necessary to verify the truth of the matters hereinabove specified as required to be set forth in the application;

16. Any additional application and material requirements specified in the City handout for the Massage Establishment license application; and
17. A copy of the resolution of approval for the operation of a massage use at the proposed massage establishment location.

C. Right to Privacy. Notwithstanding the fact that an application filed hereunder may be a public record under Government Code sections 6250 et seq., certain portions of such application contain information vital to the effective administration and enforcement of the licensing scheme established herein which is personal, private, confidential, or the disclosure of which could expose the applicant to a risk of harm. Such information includes, but is not limited to, the applicant's residence address and telephone number, the applicant's date of birth and/or age, the applicant's driver's license and/or Social Security number, and/or personal financial data. The City Council in adopting the application and licensing system set forth herein has determined in accordance with Government Code section 6255 that the public interest in disclosure of the information set forth above is outweighed by the public interest in achieving compliance with this chapter by ensuring that the applicant's privacy, confidentiality, or security interests are protected. The City Manager shall cause to be obliterated from any copy of a completed license application made available to any member of the public, the information set forth above.

5.16.050 – Application review and decision

A. Application review. Each application for a Massage Establishment license shall be reviewed to ensure that the application is consistent with the purpose of this Chapter, and applicable regulations of the Zoning Code, if any.

1. Any applicant for a license shall personally appear at the city and produce proof to the planning division that the nonrefundable application fee has been paid to the city together with any additional fees required by this chapter for additional applicants, and thereupon, said applicant(s) shall provide a complete application in compliance with this Chapter.
2. A Massage Establishment license application review is initiated when the City Manager receives a complete application package including the required information and materials specified in this Chapter, the City handout, and any additional information required by the applicable review authority in order to conduct a thorough review of the proposed establishment.
3. Upon receipt of a complete application, the review authority shall review the application to ensure accuracy of the application materials, and whether the application meets the requirements of this Chapter, Section 20.400.190 (Massage Establishments), and any other related code or policies.
4. During the course of the review process, the review authority may require the submittal of additional information.
 - a. The applicant shall be notified in writing of any revisions or additional information required and shall submit the requested information to the City

Manager within 90 days after the date of the notice or within the period designated by the review authority.

- b. Failure to submit the required information within the 90-day period or within the period of time designated by the review authority shall be cause for denial.
5. On-site inspection. An application for a Massage Establishment license may require the review authority to perform an on-site inspection of the subject premises before confirming that the request complies with all the applicable criteria set forth in this Chapter, Section 20.400.190 (Massage Establishments), and any other related code or policies.

B. Findings and Decision

1. Determination of compliance. The review authority shall determine whether or not the application meets the requirements of this Chapter and Section 20.400.190 (Massage Establishments).
 - a. Falsification of any of the above information shall be deemed sufficient reason for denial of the application.
2. Findings. The review authority may approve a Massage Establishment License, only after first making all of the following findings:
 - a. The required fee has been paid;
 - b. The application conforms in all respects to the provisions of this Chapter, and Section 20.400.190 (Massage Establishments);
 - c. An approved and active conditional use permit has been obtained for the massage establishment at the proposed location, pursuant to Section 20.400.190.B.1;
 - d. The applicant has not made a material misrepresentation, misstatement, or omission in the application;
 - e. The applicant, if an individual, or any of the principal stockholders of the corporation, or any officers or director, if the applicant is a corporation, or a partner if the applicant is a partnership, has not been convicted in a court of competent jurisdiction, or pleaded nolo contendere to any lesser-included offense specified in Section 51032 (Massage) of the Government Code or engaged in disqualifying conduct;
 - f. The applicant has not had a massage establishment, massage technician, or other similar permit or license denied, revoked or suspended by the city, or any other state or local agency prior to the date of approval;
 - g. The applicant(s) is at least eighteen years of age;
 - h. The massage establishment employs or uses only state certified massage practitioners and therapists whose certifications are valid and that owners of the state certificates are the same persons to whom CAMTC issued valid and current identification cards; and

- i. The massage establishment as proposed by the applicant would comply with all applicable laws, including, but not limited to, health, zoning, fire and safety requirements and standards.
3. Decision.
 - a. The review authority shall review the application, the background of the applicant(s), and the premises, and determine whether the required findings can be met.
 - b. If prosecution is pending against the applicant for either conduct violating this chapter's provisions or conduct violating Business and Professions Code Section 4600 et seq., the review authority may postpone its decision on the application until the prosecution's final resolution. As used in this subsection, "prosecution" means charges filed by the district attorney, administrative proceedings brought by a local government or agency, or a civil or criminal action maintained by a city attorney.
 - c. The review authority shall provide a written decision stating whether the application is approved, conditionally approved, or denied within sixty (60) calendar days of the filing of the completed application. The review authority shall deliver the notification to the applicant via first class mail and certified mail at the address shown on the application. The foregoing sixty day deadline is directory only; failure to meet such deadline shall not affect the power of the review authority to deny, or otherwise act on such application.
 - d. If the review authority denies the application, a new application may not be submitted for a period of one year.
4. Appeal. The review authority's decision may be appealed in compliance with Chapter 5.16.080 (Appeals).

5.16.060 – License restrictions and regulations

- A. Employees.** It is the responsibility of the licensee to ensure that each and every person who performs massage on the premises holds a CAMTC license issued by the State of California. The licensee shall notify the city, in writing, of the name and address of each person employed at the licensed establishment within five working days of employment. The requirements of this section are in addition to the other provisions of this chapter and zoning code and nothing contained herein shall relieve the licensee of the responsibility of ascertaining, prior to employment, whether said person has an active, unrevoked massage technician's license.
- B. Name of Business.** No licensee licensed under this chapter shall operate under any name or conduct the business under any designation not specified in the license.
- C. Licenses not assignable.** No massage establishment license may be sold, transferred or assigned by the licensee, 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 constitute a voluntary surrender of such license and

such license shall thereafter be deemed terminated and void, provided and excepting, however, that if the licensee is a partnership and one or more of the partners should withdraw, one or more of the remaining partners may acquire, by purchase or otherwise, the interest of the partner or partners who withdrew without effecting a surrender or termination of such license and in each case the licensee shall thereafter be deemed to be the surviving partner(s).

- D. Vested rights.** No license granted herein shall confer any vested right to any person or business for more than the license period. All massage operators, managers and technicians subject to this chapter shall comply with the provisions of this chapter as they may be amended hereafter.
- E. Sale or transfer of license.** Upon the sale or transfer of any interest in a massage establishment or any entity owning such massage establishment, the license issued pursuant to this chapter shall be null and void unless the sale or transaction is to an applicant shown on the application for the license pursuant to which the establishment was operated. A new application under this chapter shall be made by any person desiring to own or operate such massage establishment.

5.16.070 – Massage establishment permit expiration and renewal.

- A. Each massage establishment license shall expire after two (2) years from the date of issuance of the license unless renewed in accordance with this chapter.
- B. The licensee requesting renewal of its massage establishment license shall file an application for renewal with the City Manager at least ninety (90) calendar days prior to the scheduled expiration of the license. The renewal application shall provide all information required under Section 5.16.040 (Application filing and content) and shall also state that the licensee is currently operating under a massage establishment license, the location of the massage establishment, and the scheduled date for expiration of the license for which the licensee is seeking renewal.
- C. Any application for renewal of a massage establishment license shall be accompanied by a renewal fee in an amount established by resolution of the City Council. The renewal fee shall be used to defray the costs of investigation, report, and related application processing issues.
- D. The City Manager shall review the application for renewal and approve or deny the application, pursuant to the criteria in and within the time provided in Section 5.16.050 (Application review and decision), and shall either issue the renewed license or mail a written statement to the address indicated on the application via U.S. mail and certified mail return receipt requested, denying the license and stating the reasons therefor. The decision of the City Manager is final, unless the applicant files a written appeal in compliance with Section 5.16.090 (Appeals). A license for which renewal has been denied shall be of no effect or validity after its scheduled expiration.
- E. If criminal charges are pending against an applicant within a court or public agency, the conviction of which would result in the denial of the application, the City Manager shall suspend review of the application pending the final disposition of the criminal charges. The City Manager shall send written notice to the applicant notifying him/her that the application review is suspended pending the final disposition of the

current criminal charges. The applicant may continue to operate the massage establishment pending the final disposition of the current criminal charges. The applicant shall have the obligation of notifying the City Manager when a final decision is reached, and the outcome of the criminal matter (i.e., conviction, dismissal, etc.). The application during the period of suspension shall be treated as if it were never submitted, and the sixty (60) calendar day review period shall be of no effect. Once the City Manager receives notice from the applicant of the final disposition of a criminal matter the City Manager shall resume his or her review of the application. The review period shall commence from the date that the City Manager receives notice of the final disposition of the criminal charges from the applicant. Notwithstanding the foregoing, if an applicant fails to notify the City Manager of the final disposition of the criminal charges within one hundred eighty (180) calendar days of the disposition, the application shall be deemed expired, and the applicant will be required to submit a new application.

5.16.080 – Revocation or suspension of license

A. Grounds for revocation or suspension. The City Manager may suspend or revoke any license issued under this chapter at any time upon a determination that there has been:

1. A material false statement or omission made in the application; or
2. That there has been a transfer of an ownership interest in the establishment or any entity which may own it; or
3. That there has been a failure to comply with the provisions of this chapter, California Business and Professions Code Section 4600 et seq., or of any law of the state regulating massage establishments or massage technicians; or
4. That the licensee, any other applicant under the application, or any operator or massage technician of such massage establishment has been convicted of a crime specified in Section 51032 of the Government Code as amended from time to time, or has engaged in disqualifying conduct;
5. The licensee employs or uses one or more non-CAMTC certified massage practitioners or massage therapists to perform massage services;
6. There is an urgency or immediate action to protect the public from injury or harm; or
7. That the licensee has engaged in disqualifying conduct.

B. Prohibition Against Operation. It is unlawful for any person to conduct the business of a massage establishment or carry on the business of massage while the massage establishment license remains suspended or revoked pending a hearing.

C. Notice of Suspension or Revocation. Notice shall be given to the massage establishment license by letter stating the grounds for proposed revocation or suspension. Notice shall be given by personal service or certified, registered, or first class mail of the letter to the address shown on the last application or renewal.

- D. Appeal.** The licensee may appeal the decision of the City Manager in compliance with Section 5.16.090 (Appeals).
- E. New application after revocation.** No person may apply for a license under this chapter within one year from denial of a license to such applicant or within one year from the revocation of a license issued to such licensee, unless the cause of the denial or revocation has been, to the satisfaction of the City Manager, removed within such time. The City Manager may consider a new application upon a finding that the applicant has remedied the cause of the denial or revocation and has complied with all applicable provisions of this code.
- F. Surrender of license.** Each person to whom a license has been issued under this chapter shall immediately surrender his/her license to the City Manager upon its revocation or suspension.

5.16.090 – Appeals

- A.** The licensee shall have ten (10) calendar days from the date the notice of intent to suspend or revoke was mailed to the licensee to appeal the suspension or revocation to the City Council. The appeal shall be filed in writing in the office of the city clerk and shall be accompanied by a filing fee, as established by resolution of the City Council. An appeal that is timely and properly filed together with the filing fee shall stay suspension or revocation of the license until the City Council renders a decision on the appeal.
- B.** The appeal shall set forth the specific grounds for the appeal and the relief or action requested from the City Council.
- C.** An appeal that was timely and properly filed together with the filing fee shall be heard by the City Council, except that the City Council, in its sole discretion, may appoint a hearing officer to conduct the hearing. The hearing shall be commenced at the earliest possible date authorized by law, but in no event later than forty-five (45) calendar days from the date the appeal was filed. The city clerk shall mail notice of the date, time and place of the hearing to the appellant at least ten days prior to the hearing. If a hearing officer is appointed, the hearing officer's duties shall be limited to taking testimony, ruling on evidentiary issues and preparing a summary of the evidence for transmittal to the City Council. The City Council shall independently review the record of the hearing and allow the appellant and the City Manager, and their respective representatives, to argue to the record prior to acting on the appeal.
- D.** The hearing may be continued from time to time. The hearing shall be limited to the specific grounds set forth in the written appeal. The appellant and the City Manager shall have the right to offer testimonial, documentary and tangible evidence bearing on those grounds, be represented by counsel, and confront and cross-examine witnesses. Any relevant evidence that is the sort of evidence upon which reasonable persons are accustomed to reply in the conduct of serious affairs shall be admitted. The City Council, or the hearing officer, may establish additional procedures not in conflict with the provisions of this subsection.
- E.** Within forty-five (45) calendar days after the appeal was filed, the City Council shall act on the appeal and the city clerk shall deposit in the U.S. mail, certified mail,

return receipt requested, addressed to the appellant at the address shown on the application, written notice of the decision, including a factual statement of the findings upon which the decision was based. Otherwise, the appeal shall be deemed sustained and the licensee shall be entitled to continue to operate the massage establishment or conduct massage as a massage technician subject to the provisions of this chapter and all other applicable laws and city ordinances and regulations.

- F. In acting on the appeal, the City Council may affirm, reverse or modify the decision of the City Manager and may take any action which might have been legally taken by the City Manager in the first instance.
- G. The decision of the City Council shall be final and conclusive, unless timely judicial review is sought pursuant to Code of Civil Procedure Section 1094.8. In the event a timely action or proceeding is brought pursuant to Section 1094.8, the decision to suspend or revoke the license shall be stayed automatically pending a final decision on the merits by the trial court. As used in this subsection, final decision on the merits does not include rehearing or appellate procedures.

5.16.100 – Massage Technician Certification.

It is unlawful for any person to perform or administer a massage without a certificate issued pursuant to Business and Professions Code Chapter 10.5, commencing with section 4600, as amended. Any violation of this section is subject to the enforcement provisions of Title 1 of this Code.

Exhibit "B"

Title 20, Article 4 – Section 20.400.190 (Massage Establishments)

This Section provides standards for massage establishments, where allowed in compliance with Article 2 (Zones, Allowable Land Uses, and Zone-Specific Standards) and Chapter 5.16 (Massage Establishments).

A. Definitions. Except where the context otherwise requires, the definitions given in Chapter 5.16 govern the construction of this section.

B. Permit Requirements.

- 1. Conditional Use Permit required.** All businesses proposing to conduct massage are subject to approval of a Conditional Use Permit as referenced in Chapter 20.550 (Use Permits – Minor and Conditional).
- 2. Massage Establishment license required.** All businesses that are proposing to conduct massage from a location that have an approved and active conditional use permit for massage services must obtain approval of a massage establishment license prior to the issuance of a business license and initiation of operations.

C. Facility Requirements.

1. A recognizable and readable sign shall be posted at the main entrance identifying the establishment as a massage establishment; provided that all such signs shall comply with the sign requirements of the city.
2. If shower facilities are provided, an enclosed changing area, directly adjacent to the shower shall be provided. The changing area shall be designed to allow the patron utilizing the shower facility to exit the shower, and enter the changing area, without being exposed or visible to any other area of the massage establishment. A private changing area shall be provided for each shower facility provided. The minimum dimension of the changing area shall be 25 square feet, and meet ADA standards.
3. A minimum of one separate washbasin shall be provided in each massage establishment for the use of employees of any such establishment. Said basin shall provide soap or detergent and hot and cold running water at all times, and shall be located within or as close as practicable to the area devoted to the performing of massage services. In addition, there shall be provided at each washbasin sanitary towels placed in permanently installed dispensers.
4. The storefront windows of the massage establishment shall be transparent to provide clear visibility into the unit. The windows shall not be obscured by curtains, blinds, or other temporary devices during operating hours.

5. Table showers

- a. If an establishment is proposing the use of table showers in the facility, the entire massage room where the table shower is located shall be design and built as a shower facility.
- b. The floor and walls shall be designed and built to be waterproof per California Building Code requirements.
- c. The room shall drain properly per the California Building Code.

D. Operational Requirements.

1. A massage business licensee shall have the premises supervised at all times when open for business by the operator or a designated manager. A person designated as the responsible managing officer shall be on the premises at all times of operation and must be registered with the city manager by the owner to receive all complaints and citations. The appointment of a managing officer in charge must be in writing with the managing officer in charge acknowledging this appointment. The violation upon the premises of any massage establishment of any provision of this chapter by any agent, employee or independent contractor of the holder of a massage business license shall constitute a violation by the licensee.
2. Each massage establishment shall have at least one person who has a valid CAMTC certification on the premises at all times while the establishment is open for business.
3. The operator of a massage establishment shall maintain a register of all persons employed as a massage technician and their CAMTC certification numbers, along with all receptionists, or other employees of the establishment. Such register shall be provided to the City upon application of a massage establishment license and business license, and shall be updated when an employee, massage technician, or independent contractor is added or discontinues services at the establishment. Notification shall be provided to the City within ten (10) calendar days of the date an employee, massage technician, or independent contractor is added or discontinues service at the establishment. The register shall also be made available for inspection by representatives of the city at any time during the establishment's business hours. If the register is not made available during inspection, the establishment may receive an administrative citation, along with any individual, not including patrons, at the establishment that cannot be verified as a legal employee.
4. In no circumstance shall any owner, operator, responsible managing employee, manager, licensee, employee or independent contractor expose any of his or her

specified anatomical areas to another person or persons while at the massage establishment.

5. In no circumstance shall any specified sexual activities take place at any time at the massage establishment.
6. No person or persons shall be allowed to live inside the massage establishment at any time. No food of any kind shall be prepared for sale or sold in the establishment unless an appropriate food vending license is obtained. There shall be no beds located in areas not designated specifically as massage rooms. Locker facilities shall be provided for all employees and independent contractors. All personal items of the employees or independent contractors shall be kept in the lockers while at the establishment.
7. No massage establishment shall operate as a school of massage, or use the facilities as that of a school of massage.
8. No massage establishment employing a massage technician shall be equipped with tinted or one-way glass in any room or office.
9. There shall be no display, storage, or use of any instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities, including, but not limited to, vibrators, dildos, or condoms, or any goods or items which are replicas of, or which simulate, specified anatomical areas, or pornographic magazines, videos, or other material.
10. Each service offered, the price thereof, and the minimum length of time such service shall be performed shall be posted in a conspicuous public location in each massage business or establishment. All letters and numbers shall be capitals not less than one inch in height. No services shall be performed and no sums shall be charged for services other than those posted. This posting requirement shall not apply to exempt physicians and/or surgeons who employ or retain non-exempt persons to perform massage therapy as part of licensed medical activities. All arrangements for services to be performed shall be made in a room that is not used for massage therapy.
11. Alcoholic beverages may not be sold, served, furnished, kept, consumed, imbibed, or possessed on the premises without a Conditional Use Permit approved in compliance with Chapter 20.550 (Use Permits - Minor and Conditional) and any applicable California Department of Alcoholic Beverage Control licenses.
12. Hours of operation shall be limited to the hours of 9:00 a.m. to 10:00 p.m. daily. The hours of operation shall be clearly displayed within a common area of the facility, or may be displayed as a form of window signage in compliance with Chapter 20.325 (Sign Standards).
13. The owner or operator of each massage establishment shall display the massage establishment license issued to the establishment and the CAMTC license issued

to each massage technician employed in the establishment in an accessible and conspicuous place on the premises. CAMTC certified massage practitioners shall have his or her original state certification at his or her place of business and his or her identification card in his or her possession while providing massage services.

14. No massage services shall be provided to a patron that results in intentional contact, or occasional repetitive contact, with specified anatomical areas.
15. No person shall give, or assist in giving, any massage or other body treatment to any other person under the age of eighteen (18) years, unless the parent or guardian of the minor person has consented thereto in writing.

E. Sanitation Requirements.

1. Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided.
2. Hot and Cold running water shall be provided at all times.
3. All walls, ceiling, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry rooms, steam and vapor rooms or cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs/table showers shall be cleaned after each use.
4. Clean and sanitary towels and linens shall be provided for each patron of the establishment or each patron receiving massage services. No common use of towels or linens shall be permitted.
5. Minimum ventilation shall be provided in accordance with the California Building Code.

F. Attire Requirements.

1. Dressing while engaging in the practice of massage for compensation, or while visible to clients in a massage establishment, in any of the following is a violation of Chapter 4609 California Business and Professions code:
 - a. Attire that is transparent, see-through, or substantially exposes the massage technician's undergarments.
 - b. Swim attire, if not providing a water-based massage modality approved by CAMTC.
 - c. A manner that exposes the massage technician's specified anatomical areas.
 - d. A manner that constitutes a violation of Section 314 of the Penal Code.
 - e. A manner that is otherwise deemed by CAMTC to constitute unprofessional attire based on the custom and practice of the profession in California.

G. Permit conditions. In approving a Conditional Use Permit to establish a massage use, the review authority may impose conditions (e.g., security and safety measures, light, noise buffers, parking, etc.) on the use to ensure that it operates in a manner that provides adequate protection to the public health, safety, and general welfare.

- H. Inspection by Government Officials.** The Director, City Manager, or their authorized representatives shall have the right to enter massage establishments or businesses, from time to time, unannounced, for the purposes of making reasonable inspections to observe and enforce compliance with this Section and all laws of the City and State of California.
- I. Nuisances.** Any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be unlawful and a public nuisance, and the city attorney may in the exercise of discretion, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal or enjoinder thereof, in a manner provided by law. Violations of this chapter or any permit provided pursuant to this chapter shall also be subject to enforcement under Title 1 of this Code or suspension, revocation, or non-renewal of any applicable permit.
- J. Post-Decision Procedures.** The procedures and requirements in Chapter 20.565 (Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 6 (Administration) shall apply following the decision on a massage establishment conditional use permit application.
- K. Amortization of Existing Massage Establishments.**
1. All zoning requirements set forth in this Chapter are deemed to be necessary for the protection of the public health, safety, and welfare and shall be applicable to and govern all existing and proposed massage establishments immediately upon the date the ordinance codified in this chapter becomes effective.
 2. In the event a massage establishment lawfully in existence in a CG (Commercial General) zone prior to the adoption of this section is not in compliance with the zoning requirements of this title, such massage establishment shall conform to all zoning requirements and obtain all necessary permits required for the operation of a massage establishment identified in this Title and Title 5 (Business Licenses and Regulations) within two (2) years of the effective date of this section.
 3. Any existing massage establishment in the CN (Commercial Neighborhood) zone which is a nonconforming use as of the effective date of the ordinance shall be subject to an amortization period of two (2) years, and any such business which becomes a nonconforming use after the effective date of said ordinance shall be subject to an amortization period of two (2) years commencing on the date the use becomes nonconforming.
 4. Upon the conclusion of the amortization period, any massage establishment which is a nonconforming use shall cease all business operations, and all signs, advertising and displays relating to such business shall be removed within thirty (30) days thereafter.
 5. Notwithstanding the foregoing, zoning requirements regarding operation, sanitation and attire as set forth in this Section 20.400.190 shall become immediately effective and must be observed in full force by existing massage establishment as of the effective date of the ordinance. Zoning requirements

regarding facility improvement shall be completed within two (2) years of the effective date of this section.

L. Extension of massage establishment amortization period.

1. An application for extension of the amortization period for a massage establishment which is a nonconforming use shall be made as provided herein.
2. The owner of the property on which the business is located or the owner of the business must submit a complete application for approval of an extension not later than six (6) months prior to the expiration of the amortization period, unless the Director determines that good cause is shown for late filing of the application. Such application shall be made in writing on a form prescribed by the Director and shall be accompanied by the filing fee established by resolution of the City Council. The person requesting the extension of the amortization period shall bear the burden of proof in establishing that the amortization period established by Section 20.400.190.K of this chapter is unreasonable and that the requested extension is a reasonable amortization period under the criteria set forth in subsection 7 of this section. The person applying for the extension shall furthermore be required in order to meet its burden of proof to submit the documentation set forth in this section.
3. Not later than thirty (30) calendar days after submittal of an application to extend the amortization period, the Director shall notify the applicant, in writing, if the application is not complete. The notice shall describe the manner in which the application can be made complete and shall be deemed given upon personal delivery to the applicant or upon deposit in the U.S. mail, first class, postage prepaid, addressed to the applicant at the address shown on the application. If a written determination is not provided to the applicant within thirty (30) calendar days after the application is submitted, the application shall be deemed complete. A complete application shall include:
 - a. The applicant's name and street address of business;
 - b. The address to which notice is to be mailed, at the applicant's option, a telephone number and/or email address;
 - c. The applicant's signature;
 - d. The term of the requested extension;
 - e. Documentation relevant to the factors listed in subsection 7 of this section; and
 - f. The required filing fee.
4. Within sixty (60) days after a complete application is filed, the Planning Commission shall hear and act on the application and the secretary to the Planning Commission shall give the applicant written notice of the decision and findings made by the Planning Commission. Otherwise, the application shall be deemed granted by operation of law and the business shall be operated in accordance with the provisions of this chapter. Notice shall be deemed given upon personal delivery to the applicant or upon deposit in the U.S. mail, first class, postage prepaid, addressed to the applicant at the address shown on the application. The secretary shall give the applicant at least ten (10) calendar days written notice of the time and place at which the application shall be heard by the

Planning Commission in the same manner that notice of the decision is to be given pursuant to this subsection.

5. A decision of the Planning Commission to deny the application, may be appealed, in whole or in part, by filing a complete notice of appeal with the city clerk within fifteen (15) days after notice of the decision was given to the applicant pursuant to subsection 4 of this section. To be deemed complete, the notice of appeal shall be signed by the appellant, shall state the grounds for disagreement with the decision of the Planning Commission, and shall be accompanied by the filing fee established by resolution of the City Council.
6. Within forty-five (45) calendar days after the appeal was filed, the City Council shall hear and act on the appeal and the city clerk shall give the appellant written notice of the decision and findings made by the City Council. Otherwise, the application shall be deemed granted by operation of law and the business shall be operated in accordance with the provisions of this chapter. Notice shall be deemed given upon personal delivery to the appellant and applicant upon deposit in the U.S. mail, first class, postage prepaid, addressed to the applicant at the address shown on the application. The notice shall include a written statement verified by oath or affirmation attesting to the date that the decision was mailed to the party by first class mail. The city clerk shall give the appellant and applicant at least ten (10) calendar days written notice of the time and place at which the appeal shall be heard, de novo, by the City Council, in the same manner that written notice of the decision is to be given pursuant to this subsection.
7. In determining whether to grant an extension of the amortization period and in determining the appropriate length of such an extension, the Planning Commission and the City Council on appeal shall consider:
 - a. The amount of investment in the business;
 - b. The present actual and depreciated value of business improvements;
 - c. The applicable Internal Revenue Service depreciation schedule or functional nonconfidential equivalent;
 - d. The remaining useful life of the business improvements;
 - e. The remaining lease term;
 - f. The ability of a business and/or land owner to change the use of a conforming use;
 - g. The opportunity for relocation to a legally permissible site and the cost of relocation; and
 - h. The date upon which the property owner and/or business owner received notice of the nonconforming status of the massage establishment business and the amortization requirements.
8. The Planning Commission or the City Council on appeal shall receive and consider evidence presented by the appellant and any other persons, and shall make findings that the extension to the amortization period it establishes is reasonable in view of the evidence and the criteria set forth in subsection 7. In no event shall the amortization period extension be longer than two (2) years.
9. The decision of the Planning Commission shall be final and conclusive, unless a timely and complete appeal is filed with the city clerk pursuant to subsection 5 of this section. The decision of the City Council on appeal shall be final and

conclusive, unless timely judicial review is sought pursuant to Code of Civil Procedures Section 1094.8. In the event that a timely action or proceeding is brought pursuant to Code of Civil Procedures Section 1094.8 from the decision to deny the requested extension, in whole or in part, the decision shall be automatically stayed pending a final decision on the merits by the trial court. As used in this subsection, final decision on the merits does not include rehearing or appellate procedures.

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: January 13, 2015

SUBJECT: A PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE STANTON MUNICIPAL CODE AND ZONING CODE PERTAINING TO THE REGULATION OF MASSAGE ESTABLISHMENTS

REPORT IN BRIEF:

In September 2014, the Governor signed Assembly Bill ("AB 1147") which restored municipal land use regulatory authority over all massage establishments, including ones that employ State-certified massage therapists. To establish new land use and licensing regulations consistent with AB 1147, and to address the issues and violations that have been documented at massage establishments based on City inspections, an ordinance is proposed to amend portions of Title 5 (Business Licensing and Regulations) and Title 20 (Zoning) to establish new permitting and licensing requirements, operational, sanitation, and attire regulations, and an amortization schedule for existing massage businesses to come into compliance with the new regulations.

This ordinance is also being presented to the City Council as an urgency item. The City Attorney's Office advised the City to adopt this ordinance as a non-urgency item as a best practice against any future legal challenges.

RECOMMENDED ACTION:

1. City Council conduct a public hearing; and
2. Declare that the projects are exempt from CEQA under Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly); and
3. Introduce Ordinance No. 1032, entitled:

"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, AMENDING CHAPTER 5.16, ARTICLE I (MASSAGE ESTABLISHMENTS), SECTION 20.215.020 (COMMERCIAL ZONES), SECTION 20.320.030 (OFF-STREET PARKING), SECTION 20.400.190 (MASSAGE ESTABLISHMENTS) AND SECTION 20.620.060 (NONCONFORMING USES) OF THE STANTON MUNICIPAL CODE AND DELETING CHAPTER 5.16, ARTICLE II (MASSAGE TECHNICIANS) FROM THE STANTON MUNICIPAL CODES."

BACKGROUND:

In 2008, the Governor approved Senate Bill SB 731 ("SB 731"), which, in part, removed land use regulatory rights from cities for massage uses. Specifically, public agencies like the City were precluded from imposing zoning and licensing regulations upon massage establishments that exclusively employ State-certified massage therapists.

This legislative action resulted in a steep increase in massage establishments locating in the City, which at its high, had thirty-six (36) licensed massage establishments. Currently, there are thirty-four (34) licensed massage establishments in the City. All of the establishments that have begun operations in the City under SB 731 have been inspected by City staff and the Sheriff's department in recent years, and all but one have been found to be out of compliance with the City's municipal code and/or State laws requiring licenses for all technicians. A number of the businesses also advertise on websites that are known to be used by persons seeking illegal sexual activity, and some businesses allude to such activities in their advertisements.

To address the numerous issues that have arisen from the passage of SB 731, in September 2014, the Governor signed AB 1147, which reinstated municipal land use regulatory powers over all massage establishments, including ones that employ State-certified massage therapists. The new law provides, "the intent of the Legislature is that broad control over land use in regulating massage establishments be vested in local governments so that they may manage those establishments in the best interests of the individual community, and that the requirements and practice of the profession of massage remain a matter of statewide concern, regulation, and oversight." (Business & Professions Code 4600.5(b)) AB 1147 became effective on January 1, 2015.

ANALYSIS/JUSTIFICATION:

To address the issues that have arisen since the passage of SB 731 and the resulting increase in massage establishments in the City, amendments to the City's Municipal Code and Zoning Code are proposed. The amendments would: re-establish a conditional use permit ("CUP") requirement for massage establishments, create establishment regulations concerning operations, sanitation and attire, and set forth an amortization schedule for existing massage establishments in the City to obtain the newly required conditional use permit.

Zoning and Land Use – The proposed Zoning Code regulations for massage establishments were prompted, in part, by operations of existing massage

establishments within the City. Based on inspections conducted by City staff and the Sheriff's department of existing establishments, violations have been observed, including but not limited to:

1. Illegal tenant improvements to create massage rooms, including plumbing for table showers.
2. Unauthorized massage technicians and personnel.
3. Violations of employment and labor laws, including "under the table" compensation and failure to secure worker's compensation insurance.
4. Unsanitary facility conditions, including unwashed sheets, and trash and used contraceptive devices found on the floors.
5. Massage technicians dressed inappropriately, including exposure of specified anatomical areas.
6. Massage technicians or other persons that hide on the premises or flee the business upon City inspection.
7. Establishments that operate beyond the approved hours of operation, without obtaining a CUP to extend hours.
8. Use of the business as a residence.
9. Installation of illegal signage.
10. Refusal to allow inspections of the establishment by City personnel.

Currently, to be in compliance with SB 731, massage establishments that only employ State-certified massage therapists are permitted in any commercial zone. Under the proposed ordinance, all massage establishments would be limited to operating in the CG (Commercial General) zone, subject to approval of a conditional use permit. Currently, there are twenty-one (21) massage establishments operating in the CG zone. Massage establishments would be prohibited in every other zone of the City, including the CN (Commercial Neighborhood) zone. There are currently thirteen (13) massage establishments operating in the CN zone.

The intent of the CN zone is to provide "areas appropriate for small-scale commercial service uses and neighborhood shopping centers that serve residents in immediate surrounding neighborhoods." Typical land uses permitted in the CN zone include drug stores, hardware stores, offices, child-care and community facilities. The CN zone is typically adjacent to residential neighborhoods, and the general uses permitted are intended to service the immediate neighborhoods. In contrast, the CG zone allows for a much wider range of retail sales, entertainment, and commercial service uses.

Based on the observed operations of the existing massage establishments, and conversations with existing massage establishment owners, the majority of the massage services are provided during the later evening hours, after normal business operating hours. This may result in higher volumes of traffic and noise levels generated from the business after regular business operating hours, which, along with the violations noted above, may negatively impact the residential neighborhoods directly adjacent to the massage establishments in the CN zone. As such, it is proposed that massage establishments be prohibited in the CN zone. If the proposed Zoning

amendment is passed, existing establishments in the CN zone would be subject to an amortization schedule, as discussed below.

Further, to address known and anticipated impacts of the massage use in the CG zone, it is proposed to require a conditional use permit for all new and existing massage establishments in that zone. In addition, if a conditional use permit is approved by the Planning Commission, the owner and operator of a massage establishment would be required to obtain a Massage Establishment License pursuant to SMC Title 5 (Business Licenses and Regulations). The conditional use permit requirement is to ensure that the City considers the proposed use in context with the surrounding areas and to ensure any known and anticipated impacts caused by the land use would be appropriately conditioned to reduce said impacts.

The Massage Establishment License would, in part, ensure that the proposed operator of the massage establishment has not been convicted of any crimes related to prostitution, human trafficking or similar violations, clearly identify management staff in charge of the facility, identify all employees, and set forth penalties if the massage establishment violates the provisions of the CUP or the Establishment License. The Massage Establishment License regulations are found in Title 5 (Business Licenses and Regulations).

Establishment Regulations – Based on inspections of the existing massage establishments in the City, staff is proposing to add specific regulations regarding how the facility should be constructed, along with operational, sanitation, and attire requirements. Examples of the proposed regulations include:

1. The storefront windows of the massage establishment shall be transparent to provide clear visibility into the unit. The windows shall not be obscured by curtains, blinds, or other temporary devices during operating hours.
2. Hours of operation shall be limited to the hours of 9:00 a.m. to 10:00 p.m. daily. The hours of operation shall be clearly displayed within a common area of the facility, or may be displayed as a form of window signage in compliance with Chapter 20.325 (Sign Standards).
3. No person shall give, or assist in giving, any massage or other body treatment to any other person under the age of eighteen (18) years, unless the parent or guardian of the minor person has consented thereto in writing.
4. Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided.
5. Clean and sanitary towels and linens shall be provided for each patron of the establishment or each patron receiving massage services. No common use of towels or linens shall be permitted.

For a complete list of the proposed regulations, please refer to Exhibit "B" of Ordinance No. 1032.

Amortization of Existing Businesses – The proposed Zoning Code regulations would require a CUP to be obtained for all new and existing massage establishments. As such, to ensure that existing massage establishments apply for a CUP within an appropriate amount of time and allow them to recoup any investments in the business in case they choose not to apply, or are denied a CUP, an amortization schedule is proposed. For massage establishments that are eligible to obtain a conditional use permit, the establishment would have two (2) years to obtain both a CUP and Massage Establishment License. For the existing businesses that would not be eligible to obtain a CUP, due to the location of the business being in a zone where massage establishments are no longer permitted, the affected establishment would have two (2) years to operate as a legal nonconforming business to allow an appropriate amount of time to recoup costs associated with the establishment and operation of the business. Existing establishments would have the ability to apply for an extension of the amortization period if they can show certain hardships, including a long-term lease or an extraordinary financial investment in the business.

Planning Commission – On January 7, 2015, the Planning Commission, during their regularly scheduled meeting, conducted a public hearing to consider the proposed ordinance. At the conclusion of the public hearing, the Planning Commission adopted Resolution No. 2363 recommending the City Council adopt Ordinance No. 1032.

FISCAL IMPACT:

None. The ordinance would establish a requirement for approval of a conditional use permit for new and existing massage establishments. The funds received for any applications would cover the costs of staff time to process the applications.

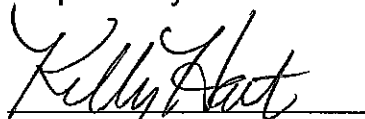
ENVIRONMENTAL IMPACT:

The project is exempt from CEQA under Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly).

PUBLIC NOTIFICATION:

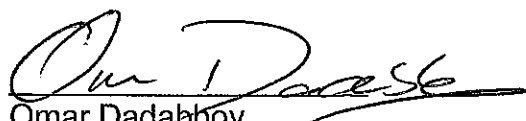
Public notice for this item was made through the regular agenda process, and published in a local newspaper.

Prepared By:



Kelly Hart
Associate Planner

Reviewed By:



Omar Dadabhoy
Community and Economic
Development Director

Concurred By:

Matthew E. Richardson
City Attorney

Approved By:

James A. Box
City Manager

Attachments:

A. Ordinance No. 1032

ORDINANCE NO. 1032

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, AMENDING CHAPTER 5.16, ARTICLE I (MESSAGE ESTABLISHMENTS), SECTION 20.215.020 (COMMERCIAL ZONES), SECTION 20.320.030 (OFF-STREET PARKING), SECTION 20.400.190 (MESSAGE ESTABLISHMENTS) AND SECTION 20.620.060 (NONCONFORMING USES) OF THE STANTON MUNICIPAL CODE AND DELETING CHAPTER 5.16, ARTICLE II (MESSAGE TECHNICIANS) FROM THE STANTON MUNICIPAL CODE

WHEREAS, Article 11, Section 7 of the California Constitution authorizes the City of Stanton ("City") to make and enforce within its limits all ordinances and regulations not in conflict with general laws; and

WHEREAS, in 2008, the Legislature adopted Senate Bill 731, which created the California Massage Therapy Council, a state-organized nonprofit organization with regulatory authority over the certification of massage practitioners throughout the State of California; and

WHEREAS, Senate Bill 731 also limited the City's regulatory authority over massage establishments that exclusively hire State-certified massage technicians, preempting most local licensure and permitting requirements and land use regulations; and

WHEREAS, the City amended the Stanton Municipal Code ("SMC") to comply with the regulations set forth in Senate Bill 731; and

WHEREAS, Senate Bill 731 has been widely criticized by local agencies as providing massage businesses with almost unprecedented protection from local zoning and land use authority, and interfering with local law enforcement efforts to close massage businesses that allow prostitution and other illegal activities; and

WHEREAS, prior to the passage of Senate Bill 731, the City contained one licensed massage technician who operated from a doctor's office. Following the passage of Senate Bill 731, a total of 34 massage establishments located in the City; and

WHEREAS, the increased number of massage establishments that have located in the City have resulted in an increase of police and code enforcement calls for service to many of those massage establishments. Some of those establishments are suspected of allowing sexually explicit activity to take occur on the premises, including prostitution; and

WHEREAS, during City inspections of some existing massage establishments, City inspectors found violations including illegal tenant improvements to create massage rooms, including plumbing for table showers, unauthorized massage technicians and personnel, violations of employment and labor laws, including establishments' failure to secure worker's compensation insurance, unsanitary facility conditions, including unwashed sheets and trash, including used contraceptive devices, massage technicians

dressed inappropriately, including the exposure of specified anatomical areas, establishments operating beyond approved hours of operation, persons using the establishments as a residence, installation of illegal signage, and employees refusing to allow City inspections of the establishments; and

WHEREAS, the illicit and illegal activities detailed in the above recitals at massage establishments in the City pose immediate health and safety threats to the establishments, its operators, employees, patrons, surrounding businesses, and the public; and

WHEREAS, Assembly Bill 1147, signed recently by Governor Jerry Brown, was created in response to criticism against Senate Bill 731 and allows local agencies to impose reasonable zoning, business licensing, and health and safety requirements on massage establishments. Assembly Bill 1147 went into effect on January 1, 2015; and

WHEREAS, the City wishes to amend the Stanton Municipal Code to ensure that the City regulates massage establishments in compliance with the provisions of Assembly Bill 1147; and

WHEREAS, the City is also authorized by Government Code Section 51030 *et seq.*, to regulate massage establishments by imposing reasonable standards relative to the skill and experience of massage operators and massage technicians, and reasonable conditions on the operation of the massage establishments; and

WHEREAS, the public peace, health, safety, and welfare require immediate revisions to SMC ordinances relating to massage establishments and massage technicians to ensure that nuisance activities occurring at massage establishments in the City are properly regulated and cease; and

WHEREAS, the Planning Commission conducted a public hearing on the proposed Zoning Code Amendment AZC14-02 at a regular meeting on January 7, 2015, in accordance with SMC section 20.610.030(C), and recommended that the City Council approve Zoning Code Amendment AZC14-02 and approve this Ordinance; and

WHEREAS, the City Council conducted a public hearing on the proposed Zoning Code Amendment AZC 14-02 at a regular meeting on January 13, 2015, in accordance with SMC sections 20.610.030(C) and 20.610.050(A)(1); and

WHEREAS, all legal prerequisites prior to the adoption of this Ordinance have occurred.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON DOES ORDAIN AS FOLLOWS:

SECTION 1: The City Council finds that all the facts, findings, and conclusions set forth above in this Ordinance are true and correct.

SECTION 2: Chapter 5.16, Article I. Chapter 5.16, Article 1 of the Stanton Municipal Code is hereby amended and restated in its entirety, as set forth in Exhibit "A" ("Chapter 5.16, Massage Establishments"), attached hereto and incorporated herein.

SECTION 3: Chapter 5.16, Article II. Chapter 5.16, Article II of the Stanton Municipal Code is hereby deleted in its entirety.

SECTION 4: Section 20.215.020. The reference to "Massage Establishments" in Section 20.215.020, Table 2-5 of the Stanton Municipal Code is hereby amended to read as follows:

Land Use	CN	CG	Specific Use Regulations
<i>Service Uses – General</i>			
Massage Establishments	P(1) –	P(1) CUP	MC 5.16; 20.400.190200
Late Hour Operations	CUP	CUP	

Notes:

1) ~~A Conditional Use Permit shall be required if not all persons engaged in the practice of massage therapy at the establishment have a valid MTO (Massage Therapy Organization) Certificate or the State law regulating massage establishments terminates under its sunset review provision (Business and Professions Code Section 4600 et seq.).~~

SECTION 5: Section 20.320.030. The reference to "Massage Establishments" in Section 20.320.030, Table 3-6 of the Stanton Municipal Code is hereby amended to read as follows:

Table 3-6 Off-Street Parking Space Requirements	
Description of Use	Required Number of Spaces (1) See Section 20.320.030.B (Calculation Metrics)
<i>Service Uses – General</i>	
Massage Establishments	1 space/200 square feet or as required by Conditional Use Permit (Chapter 20.550)

SECTION 6: Section 20.400.190. Section 20.400.190 of the Stanton Municipal Code is hereby amended and restated in its entirety, as set forth in Exhibit "B" ("Massage Establishments"), attached hereto and incorporated herein.

SECTION 7: Section 20.620.060. Subsection (A)(8) is hereby added to Section 20.620.060 of the Stanton Municipal Code to read as follows:

"8. Massage Establishments. For provisions on nonconforming massage establishments, see Section 20.400.190 (Massage Establishments)."

SECTION 8. The City Council finds that this Ordinance is consistent with the goals, policies and general land uses and programs specified in the General Plan, specifically: Goal CHS 4.3 to "provide and maintain a high level of police protection services necessary to adequately serve the community and provide a sense of safety to residents"; Strategy CHS 3.2.1, "commercial and industrial uses, construction activity and other non-transportation related sources of noise can contribute negatively to the noise environment. Identifying and mitigating these potential noise sources will reduce negative impacts"; Goal CHS 3.2, "develop measures to control non-transportation noise impacts throughout Stanton"; and Strategy LU 1.1.2, "ensure adjacent land uses are compatible with one another." Regulating massage establishments is meant to minimize nuisance conditions, such as noise impacts, municipal code violations, illicit activities, and decrease law enforcement calls related to those nuisances.

SECTION 9. The City Council further finds that this Ordinance will not be detrimental to the public interest, health, safety, convenience, or welfare of the City. Rather, this Ordinance is recommended to reduce the nuisance issues and decrease the burden on public safety services related to massage establishments. In addition, the City Council finds this Ordinance is internally consistent with other applicable provisions of the Municipal Code. The modifications to the municipal code would replace existing regulations regarding massage establishments in their entirety, which is permitted by State law. This Ordinance is enacted in accordance with the procedures of Stanton Municipal Code Chapter 20.610, and adds regulations to relevant portions of the municipal code, as detailed in this Ordinance No. 1032.

SECTION 10. The City Council further finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly).

SECTION 11. The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at Stanton City Hall, 7800 Katella Ave., Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 12. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Stanton hereby declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any or more sections, subsections, sentences, clauses and phrases may be declared invalid or unconstitutional.

SECTION 13. This Ordinance shall take effect and be in full force thirty (30) days from and after its passage. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted in the three (3) designated posting places within the City of Stanton within fifteen (15) days after its passage.

PASSED, APPROVED, and ADOPTED this 27th day of January, 2015.

ALEXANDER A. ETHANS, MAYOR

ATTEST:

LUZ A. RODRIGUEZ, INTERIM CITY CLERK

APPROVED AS TO FORM:

MATTHEW E. RICHARDSON, CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF STANTON)

I, LUZ A. RODRIGUEZ, Interim City Clerk of the City of Stanton, California, do hereby certify that the foregoing Ordinance No. 1032 was introduced at a regular meeting of the City Council of the City of Stanton, California, held on the 13th day of January, 2015, and was duly adopted at a regular meeting of the City Council held on the 27th day of January, 2015, by the following roll-call vote, to wit:

AYES: COUNCILMEMBERS: _____

NOES: COUNCILMEMBERS: _____

ABSENT: COUNCILMEMBERS: _____

ABSTAIN: COUNCILMEMBERS: _____

CITY CLERK, CITY OF STANTON

Exhibit "A"

Title 5, Chapter 5.16 (Massage Establishments and Massage Technicians)

Section 5.16.010 – Definitions

For the purposes of carrying out the intent of this Chapter, unless the content clearly indicates to the contrary, the following words, phrases, and terms shall have the following meanings:

Accessory massage establishment. An establishment that provides massage which is incidental to the primary business, where the owner of the primary business is responsible for the massage services and conduct of the massage technician(s) employed at the location.

Applicant. Any person or entity desiring to obtain a license to operate a massage establishment, and includes each and every owner of the proposed establishment, including:

1. **Sole Proprietorship.** A sole proprietorship, also known as a sole trader or simply proprietorship, is a type of business entity that is owned and run by one individual or one legal person and in which there is no legal distinction between the owner and the business.
2. **Corporations.** If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation, together with the names and residence addresses of each of the officers, directors, and each and every majority stockholder. In addition, a certified copy of its articles of incorporation, together with any authorizations to issue stock shall be attached to the application.
3. **Partnerships.** If the applicant is a partnership, the application shall set forth the name and residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply. If the applicant is a partnership, a certified copy of the partnership agreement, if there be one, shall be attached to the application, and if the applicant be a limited partnership, a certified copy of its certificate of limited partnership shall be attached to the application.
4. If a corporation or a partnership is an applicant, then the identifying information required in this section as to the "applicant" shall be provided also as to such stockholders, directors and/or partners as the case may be and a license may be issued or denied if such stockholders, directors and/or partners do or do not satisfy the requirements and standards imposed by this chapter as to the background and character of the "applicant."

California Massage Therapy Council. The non-profit organization formed pursuant to Business and Professions Code Chapter 10.5, commencing with section 4600, as amended. The organization may be referred to hereinafter as "CAMTC".

City. The city of Stanton.

City Manager. The City Manager and/or those officers, employees, and agents of the city, directed by the City Manager to carry out all or portions of this chapter.

Compensation. A payment, loan, advance, donation, contribution, or gift of money, of anything of value.

Completed application. An application packet which contains all of the information required pursuant to this chapter, together with the verified fingerprints of the applicant(s).

Disqualifying conduct. Conduct by the applicant that would disqualify the application for a massage establishment, including any of the following:

1. Within five years of the date of filing of the application in question or any time after the filing of the application and/or any time after the issuance of a license, the licensee has been convicted in a court of competent jurisdiction of:
 - a. Any crime specified in Government Code section 51030 et seq., or
 - b. Any misdemeanor or felony offense which relates directly to the operation of a massage establishment, whether as a massage establishment owner, operator, massage technician, or employee thereof; or
2. Within five years of the date of the filing of the application in question or any time after the filing of the application and/or any time after the issuance of a license, the licensee has had revoked any massage establishment, operator, massage practitioner, technician, therapist, trainee, or similar license issued by the state, or any county or city; or
3. Within five years of the date of the filing of the application in question or any time after the filing of the application and/or any time after the issuance of a license, the licensee has been convicted in a court of competent jurisdiction of:
 - a. Any violation of California Penal Code sections 266(h), 315, 316, and 318 or Sections 647(b) or 653.23, or
 - b. Conspiracy or attempt to commit any such offense, or
 - c. Any offense in a jurisdiction outside the state which is the equivalent of any of the aforesaid offenses, or
 - d. Has been found guilty of or pleaded nolo contendere to any lesser-included offense of the above, or
 - e. Has been found guilty of or pleaded nolo contendere to any crime specified in Government Code section 51030 et seq.; or
4. Is required to register under the provisions of California Penal Code section 290; or
5. Has been subjected to a permanent injunction against the conducting or maintaining of a nuisance pursuant to California Penal Code sections 11225 through 11235; or

6. Has engaged in, or allowed an employee or massage technician under supervision to engage in, touching the specified anatomical areas of oneself or of another person while providing massage services or while within view of a customer or patron of the massage establishment, or engaging in specified sexual acts with oneself or another person while providing massage services or while within view of a customer or patron of the massage establishment; or
7. Has engaged in, or allowed an employee or massage technician under supervision to engage in, the exposing specified anatomical areas of oneself or of another person to view while providing massage services or while within view of a customer or patron of the massage establishment.

Employee. Any and all persons, other than a massage technician, who may render any service to the licensee, and who receives compensation from the licensee or an agent, and who does not perform massages on the patrons.

Licensee. An individual, partnership, corporation or other entity that has been approved for a massage establishment license.

Manager. An individual who manages or who is otherwise primarily responsible for the operation of the massage establishment, and shall include each and every person responsible for establishing personnel policy, hiring personnel, ensuring that the establishment complies with the requirements of this code and of other laws, and of establishing and administering any and all policies established by the owner for the operation of the establishment.

Massage. The scientific manipulation of the soft tissues, including but not limited to any method of treating any of the external parts of the body for remedial, health or hygienic purposes by means, including but not limited to, rubbing, stroking, pressuring, acupressuring, kneading, tapping, pounding, vibrating or stimulating with the hands, feet, elbows or any other part of the body, with or without the aid of any instrument or device and with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparations commonly used in this practice, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or any gratuity therefor.

Massage establishment. A fixed location where massage is performed for compensation.

Massage establishment license. A license issued by the City to a massage establishment to conduct massage from a location with an approved conditional use permit for the operation of a massage use.

Massage technician. Any massage practitioner or massage therapist who administers to another person, for any form of compensation, a massage or other similar procedure, and who is certified by the State of California in compliance with the California Massage Therapy Act.

Person. Any individual, sole proprietorship, firm, partnership, corporation, association or any combination of individuals of whatever form or character.

Sole Provider. A massage business where the owner owns 100 percent of the business, is the only person who provides massage services for compensation for the business pursuant to a valid and active certificate issued in accordance with the California Massage Therapy Act, and has no other employees, certified massage technicians, massage technicians, or independent contractors.

Specified anatomical areas. Means and includes any of the following human anatomical areas:

Genitals, pubic area, buttocks, anus or female breasts below a point immediately above the top of the areolae.

Specified sexual activities. Means and includes any of the following:

1. The fondling or other erotic touching of any bare human genitals, pubic area, buttocks, anus or female breast;
2. Human sex acts, actual or simulated, including intercourse, oral copulation or sodomy;
3. Human masturbation, actual or simulated;
4. The actual or simulated infliction of pain by one human upon another or by an individual upon himself or herself, for the purpose of the sexual gratification or release of either individual, as a result of flagellation, beating, striking or touching of an erogenous zone, including without limitation, the thigh, genitals, buttock, pubic area, or, if such person is a female, a breast;
5. Sex acts, actual or simulated, between a human being and an animal, including but not limited to intercourse, oral copulation, or sodomy; or
6. Excretory or urinary functions as part of, or in connection with, any of the activities set forth in subsections (1) through (5) of this definition.

5.16.020 – Applicability

A. When Required. A Massage Establishment License shall be required for fixed locations within the city that provide massage services as defined within this Chapter. It is unlawful for any person to operate or conduct a massage business or to permit a massage establishment to be operated or conducted, in or upon any premises within the city, or to render a massage or permit a massage to be rendered within the city at any location not licensed as a massage establishment, in accordance with the provisions set forth in this chapter.

B. Exceptions. The following are exempt from the requirement for a Massage Establishment License:

1. Sole Providers of massage as defined and set forth in this Chapter and in compliance with the California Massage Therapy Act.
2. Accessory Massage Establishments. A Massage Establishment License shall not be required for accessory massage establishments in compliance with this Chapter.

C. Exemptions. The provisions of this chapter shall have no application and no effect upon and shall not be construed as applying to the following:

1. Treatment administered in good faith in the course of practice of any healing art or profession by any person licensed to practice any such art or profession under the Business and Professions Code of the state of California, or any other law of this state, including physicians, surgeons, chiropractors, osteopaths, podiatrists and physical therapists;
2. Nurses registered under the laws of the state of California;
3. Barbers, estheticians and beauticians who are duly licensed under the laws of the state of California while engaging in practices within the scope of their licenses;
4. Hospitals, nursing homes, sanatoriums, or other health facilities duly licensed by the state of California;
5. Coaches and trainers in accredited high schools, junior colleges and colleges or universities acting within the scope of their employment;
6. Trainers of amateur, semi-professional or professional athletes or athletic teams so long as such persons do not practice massage therapy as their primary occupation at any location where they provide such services in the city; or
7. Any profession over which the state has assumed exclusive jurisdiction as a matter of statewide concern and which gives the services or treatments included in the term "massage," as herein defined, as incidents to such business, calling or profession.

5.16.030 – Review Authority

- A. The City Manager shall approve or disapprove an application for a Massage Establishment License.
- B. The City Manager may choose to refer any application for a Massage Establishment License to the City Council for review and final decision.

5.16.040 – Application filing and content

A. Application filing.

1. An application for a Massage Establishment License shall be filed and processed in compliance with this chapter.
2. The applicant shall include the information and materials specified in this chapter, and specified in the City handout for Massage Establishment applications, together with the required fee in compliance with the fee resolution adopted by the City Council.
3. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 5.16.050 (Application review and decision).

B. Application Content. Any applicant requesting a license pursuant to this section shall submit the following:

1. The present or proposed address where the business is to be conducted;
2. The type of ownership of the business (i.e., Sole Proprietorship, Partnership, Corporation, etc.);
3. The exact name, including any fictitious name, if applicable, under which the business is to be operated;
4. Every applicant for a license, whether an individual or combination of individuals, and each partner or limited partner of an applicant, if a partnership applicant, and every officer, director, and each stockholder holding ten percent or more of the stock of a corporate applicant, shall furnish the following information:
 - a. The full name, date of birth, current residential address, business address, and telephone numbers,
 - b. California driver's license number or California identification number and social security number or resident alien number, if any,
 - c. Any other names or aliases, including nicknames, used within five years of the date of filing the application,
 - d. Each residence and business address for the five years immediately prior to the date of filing the application, and the inclusive dates of each such address,
 - e. Written proof that the applicant is over the age of eighteen years,
 - f. The applicant's height, weight and color of eyes,
 - g. Two portrait photographs at least two inches by two inches and shall have been taken within sixty days prior to filing the application,
 - h. The massage or similar business license or permit history of the applicant, whether such person, in previously operating in this or another city or state under license or permit, has had such license or permit revoked or suspended and the reason therefor; and the business activity or occupation subsequent to such action of suspension or revocation,
 - i. The name and address of any massage business or other establishment currently owned or operated by the applicant wherein the business of massage is conducted,
 - j. Any conviction, forfeiture of bond, or plea of nolo contendere upon any criminal violation or city ordinance violation (except minor traffic violations), within a five-year period, and, if so, the place and court in which such conviction, plea or forfeiture was heard, the specific charge, and the sentence imposed as a result thereof,
 - k. Whether the applicant has ever been convicted of any crime specified in Section 51032 of the Government Code and, if so, the circumstances thereof and the sentence therefor, and

- I. The applicant shall be required to furnish fingerprints for the purpose of establishing identification, and verify through a background check the information provided in the application is true and correct. Any required fingerprinting fee will be the responsibility of the applicant;
5. A description of the service(s) to be provided;
6. A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant;
7. A complete list of the names, including any pseudonym, alias(es), alternate name(s), or nickname(s), and residential addresses of all massage technicians, employees, independent contractors and attendants in the business; the name and residential address of the operator, manager or other person principally in charge of the operation of the business; and the names and residential addresses of all principals of the business;
8. The name and address of the record owner and lessor of the real property upon or in which the massage establishment is to be conducted, and a copy of the lease or rental agreement;
9. The name(s) of person(s) having the management or supervision of the applicant's massage establishment;
10. Written authorization for the city, its agents and employees, to seek information and conduct an investigation in to the truth of the statements set forth in the application and the qualifications of the applicant for the permit;
11. A sketch or diagram showing the complete interior configuration of the business, including without limitation the location of the restrooms, massage rooms, customer areas, employee only designated areas, and any facility requirements as identified in Section 20.400.190 (Massage Establishments). The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale, with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches;
12. A signed statement that the massage business owner and/or applicant shall be responsible for the conduct of all employees, massage technicians and independent contractors working on the premises of the massage establishment and that failure to comply with California Business and Professions Code Section 4600 et seq., with any local, state, or federal law, or with the provisions of this chapter or Title 20 may result in the revocation of the city-issued permit.
13. If the applicant is a natural person, that person shall sign the application under penalty of perjury. If the applicant is other than a natural person, a partner, officer, director, major shareholder or major interest holder of the legal entity shall sign the application under penalty of perjury;
14. If the applicant does not own the lot or parcel on which the massage business will operate, the owner shall consent to the filing of the application by signing and dating the application;
15. Such other identification and information as may be necessary to verify the truth of the matters hereinabove specified as required to be set forth in the application;

16. Any additional application and material requirements specified in the City handout for the Massage Establishment license application; and
17. A copy of the resolution of approval for the operation of a massage use at the proposed massage establishment location.

C. Right to Privacy. Notwithstanding the fact that an application filed hereunder may be a public record under Government Code sections 6250 et seq., certain portions of such application contain information vital to the effective administration and enforcement of the licensing scheme established herein which is personal, private, confidential, or the disclosure of which could expose the applicant to a risk of harm. Such information includes, but is not limited to, the applicant's residence address and telephone number, the applicant's date of birth and/or age, the applicant's driver's license and/or Social Security number, and/or personal financial data. The City Council in adopting the application and licensing system set forth herein has determined in accordance with Government Code section 6255 that the public interest in disclosure of the information set forth above is outweighed by the public interest in achieving compliance with this chapter by ensuring that the applicant's privacy, confidentiality, or security interests are protected. The City Manager shall cause to be obliterated from any copy of a completed license application made available to any member of the public, the information set forth above.

5.16.050 – Application review and decision

- A. Application review.** Each application for a Massage Establishment license shall be reviewed to ensure that the application is consistent with the purpose of this Chapter, and applicable regulations of the Zoning Code, if any.
1. Any applicant for a license shall personally appear at the city and produce proof to the planning division that the nonrefundable application fee has been paid to the city together with any additional fees required by this chapter for additional applicants, and thereupon, said applicant(s) shall provide a complete application in compliance with this Chapter.
 2. A Massage Establishment license application review is initiated when the City Manager receives a complete application package including the required information and materials specified in this Chapter, the City handout, and any additional information required by the applicable review authority in order to conduct a thorough review of the proposed establishment.
 3. Upon receipt of a complete application, the review authority shall review the application to ensure accuracy of the application materials, and whether the application meets the requirements of this Chapter, Section 20.400.190 (Massage Establishments), and any other related code or policies.
 4. During the course of the review process, the review authority may require the submittal of additional information.
 - a. The applicant shall be notified in writing of any revisions or additional information required and shall submit the requested information to the City

Manager within 90 days after the date of the notice or within the period designated by the review authority.

- b. Failure to submit the required information within the 90-day period or within the period of time designated by the review authority shall be cause for denial.
5. On-site inspection. An application for a Massage Establishment license may require the review authority to perform an on-site inspection of the subject premises before confirming that the request complies with all the applicable criteria set forth in this Chapter, Section 20.400.190 (Massage Establishments), and any other related code or policies.

B. Findings and Decision

1. Determination of compliance. The review authority shall determine whether or not the application meets the requirements of this Chapter and Section 20.400.190 (Massage Establishments).
 - a. Falsification of any of the above information shall be deemed sufficient reason for denial of the application.
2. Findings. The review authority may approve a Massage Establishment License, only after first making all of the following findings:
 - a. The required fee has been paid;
 - b. The application conforms in all respects to the provisions of this Chapter, and Section 20.400.190 (Massage Establishments);
 - c. An approved and active conditional use permit has been obtained for the massage establishment at the proposed location, pursuant to Section 20.400.190.B.1;
 - d. The applicant has not made a material misrepresentation, misstatement, or omission in the application;
 - e. The applicant, if an individual, or any of the principal stockholders of the corporation, or any officers or director, if the applicant is a corporation, or a partner if the applicant is a partnership, has not been convicted in a court of competent jurisdiction, or pleaded nolo contendere to any lesser-included offense specified in Section 51032 (Massage) of the Government Code or engaged in disqualifying conduct;
 - f. The applicant has not had a massage establishment, massage technician, or other similar permit or license denied, revoked or suspended by the city, or any other state or local agency prior to the date of approval;
 - g. The applicant(s) is at least eighteen years of age;
 - h. The massage establishment employs or uses only state certified massage practitioners and therapists whose certifications are valid and that owners of the state certificates are the same persons to whom CAMTC issued valid and current identification cards; and

- i. The massage establishment as proposed by the applicant would comply with all applicable laws, including, but not limited to, health, zoning, fire and safety requirements and standards.
3. Decision.
 - a. The review authority shall review the application, the background of the applicant(s), and the premises, and determine whether the required findings can be met.
 - b. If prosecution is pending against the applicant for either conduct violating this chapter's provisions or conduct violating Business and Professions Code Section 4600 et seq., the review authority may postpone its decision on the application until the prosecution's final resolution. As used in this subsection, "prosecution" means charges filed by the district attorney, administrative proceedings brought by a local government or agency, or a civil or criminal action maintained by a city attorney.
 - c. The review authority shall provide a written decision stating whether the application is approved, conditionally approved, or denied within sixty (60) calendar days of the filing of the completed application. The review authority shall deliver the notification to the applicant via first class mail and certified mail at the address shown on the application. The foregoing sixty day deadline is directory only; failure to meet such deadline shall not affect the power of the review authority to deny, or otherwise act on such application.
 - d. If the review authority denies the application, a new application may not be submitted for a period of one year.
4. Appeal. The review authority's decision may be appealed in compliance with Chapter 5.16.080 (Appeals).

5.16.060 – License restrictions and regulations

- A. Employees.** It is the responsibility of the licensee to ensure that each and every person who performs massage on the premises holds a CAMTC license issued by the State of California. The licensee shall notify the city, in writing, of the name and address of each person employed at the licensed establishment within five working days of employment. The requirements of this section are in addition to the other provisions of this chapter and zoning code and nothing contained herein shall relieve the licensee of the responsibility of ascertaining, prior to employment, whether said person has an active, unrevoked massage technician's license.
- B. Name of Business.** No licensee licensed under this chapter shall operate under any name or conduct the business under any designation not specified in the license.
- C. Licenses not assignable.** No massage establishment license may be sold, transferred or assigned by the licensee, 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 constitute a voluntary surrender of such license and

such license shall thereafter be deemed terminated and void, provided and excepting, however, that if the licensee is a partnership and one or more of the partners should withdraw, one or more of the remaining partners may acquire, by purchase or otherwise, the interest of the partner or partners who withdrew without effecting a surrender or termination of such license and in each case the licensee shall thereafter be deemed to be the surviving partner(s).

- D. Vested rights.** No license granted herein shall confer any vested right to any person or business for more than the license period. All massage operators, managers and technicians subject to this chapter shall comply with the provisions of this chapter as they may be amended hereafter.
- E. Sale or transfer of license.** Upon the sale or transfer of any interest in a massage establishment or any entity owning such massage establishment, the license issued pursuant to this chapter shall be null and void unless the sale or transaction is to an applicant shown on the application for the license pursuant to which the establishment was operated. A new application under this chapter shall be made by any person desiring to own or operate such massage establishment.

5.16.070 – Massage establishment permit expiration and renewal.

- A.** Each massage establishment license shall expire after two (2) years from the date of issuance of the license unless renewed in accordance with this chapter.
- B.** The licensee requesting renewal of its massage establishment license shall file an application for renewal with the City Manager at least ninety (90) calendar days prior to the scheduled expiration of the license. The renewal application shall provide all information required under Section 5.16.040 (Application filing and content) and shall also state that the licensee is currently operating under a massage establishment license, the location of the massage establishment, and the scheduled date for expiration of the license for which the licensee is seeking renewal.
- C.** Any application for renewal of a massage establishment license shall be accompanied by a renewal fee in an amount established by resolution of the City Council. The renewal fee shall be used to defray the costs of investigation, report, and related application processing issues.
- D.** The City Manager shall review the application for renewal and approve or deny the application, pursuant to the criteria in and within the time provided in Section 5.16.050 (Application review and decision), and shall either issue the renewed license or mail a written statement to the address indicated on the application via U.S. mail and certified mail return receipt requested, denying the license and stating the reasons therefor. The decision of the City Manager is final, unless the applicant files a written appeal in compliance with Section 5.16.090 (Appeals). A license for which renewal has been denied shall be of no effect or validity after its scheduled expiration.
- E.** If criminal charges are pending against an applicant within a court or public agency, the conviction of which would result in the denial of the application, the City Manager shall suspend review of the application pending the final disposition of the criminal charges. The City Manager shall send written notice to the applicant notifying him/her that the application review is suspended pending the final disposition of the

current criminal charges. The applicant may continue to operate the massage establishment pending the final disposition of the current criminal charges. The applicant shall have the obligation of notifying the City Manager when a final decision is reached, and the outcome of the criminal matter (i.e., conviction, dismissal, etc.). The application during the period of suspension shall be treated as if it were never submitted, and the sixty (60) calendar day review period shall be of no effect. Once the City Manager receives notice from the applicant of the final disposition of a criminal matter the City Manager shall resume his or her review of the application. The review period shall commence from the date that the City Manager receives notice of the final disposition of the criminal charges from the applicant. Notwithstanding the foregoing, if an applicant fails to notify the City Manager of the final disposition of the criminal charges within one hundred eighty (180) calendar days of the disposition, the application shall be deemed expired, and the applicant will be required to submit a new application.

5.16.080 – Revocation or suspension of license

A. Grounds for revocation or suspension. The City Manager may suspend or revoke any license issued under this chapter at any time upon a determination that there has been:

1. A material false statement or omission made in the application; or
2. That there has been a transfer of an ownership interest in the establishment or any entity which may own it; or
3. That there has been a failure to comply with the provisions of this chapter, California Business and Professions Code Section 4600 et seq., or of any law of the state regulating massage establishments or massage technicians; or
4. That the licensee, any other applicant under the application, or any operator or massage technician of such massage establishment has been convicted of a crime specified in Section 51032 of the Government Code as amended from time to time, or has engaged in disqualifying conduct;
5. The licensee employs or uses one or more non-CAMTC certified massage practitioners or massage therapists to perform massage services;
6. There is an urgency or immediate action to protect the public from injury or harm; or
7. That the licensee has engaged in disqualifying conduct.

B. Prohibition Against Operation. It is unlawful for any person to conduct the business of a massage establishment or carry on the business of massage while the massage establishment license remains suspended or revoked pending a hearing.

C. Notice of Suspension or Revocation. Notice shall be given to the massage establishment license by letter stating the grounds for proposed revocation or suspension. Notice shall be given by personal service or certified, registered, or first class mail of the letter to the address shown on the last application or renewal.

- D. Appeal.** The licensee may appeal the decision of the City Manager in compliance with Section 5.16.090 (Appeals).
- E. New application after revocation.** No person may apply for a license under this chapter within one year from denial of a license to such applicant or within one year from the revocation of a license issued to such licensee, unless the cause of the denial or revocation has been, to the satisfaction of the City Manager, removed within such time. The City Manager may consider a new application upon a finding that the applicant has remedied the cause of the denial or revocation and has complied with all applicable provisions of this code.
- F. Surrender of license.** Each person to whom a license has been issued under this chapter shall immediately surrender his/her license to the City Manager upon its revocation or suspension.

5.16.090 – Appeals

- A.** The licensee shall have ten (10) calendar days from the date the notice of intent to suspend or revoke was mailed to the licensee to appeal the suspension or revocation to the City Council. The appeal shall be filed in writing in the office of the city clerk and shall be accompanied by a filing fee, as established by resolution of the City Council. An appeal that is timely and properly filed together with the filing fee shall stay suspension or revocation of the license until the City Council renders a decision on the appeal.
- B.** The appeal shall set forth the specific grounds for the appeal and the relief or action requested from the City Council.
- C.** An appeal that was timely and properly filed together with the filing fee shall be heard by the City Council, except that the City Council, in its sole discretion, may appoint a hearing officer to conduct the hearing. The hearing shall be commenced at the earliest possible date authorized by law, but in no event later than forty-five (45) calendar days from the date the appeal was filed. The city clerk shall mail notice of the date, time and place of the hearing to the appellant at least ten days prior to the hearing. If a hearing officer is appointed, the hearing officer's duties shall be limited to taking testimony, ruling on evidentiary issues and preparing a summary of the evidence for transmittal to the City Council. The City Council shall independently review the record of the hearing and allow the appellant and the City Manager, and their respective representatives, to argue to the record prior to acting on the appeal.
- D.** The hearing may be continued from time to time. The hearing shall be limited to the specific grounds set forth in the written appeal. The appellant and the City Manager shall have the right to offer testimonial, documentary and tangible evidence bearing on those grounds, be represented by counsel, and confront and cross-examine witnesses. Any relevant evidence that is the sort of evidence upon which reasonable persons are accustomed to reply in the conduct of serious affairs shall be admitted. The City Council, or the hearing officer, may establish additional procedures not in conflict with the provisions of this subsection.
- E.** Within forty-five (45) calendar days after the appeal was filed, the City Council shall act on the appeal and the city clerk shall deposit in the U.S. mail, certified mail,

return receipt requested, addressed to the appellant at the address shown on the application, written notice of the decision, including a factual statement of the findings upon which the decision was based. Otherwise, the appeal shall be deemed sustained and the licensee shall be entitled to continue to operate the massage establishment or conduct massage as a massage technician subject to the provisions of this chapter and all other applicable laws and city ordinances and regulations.

- F. In acting on the appeal, the City Council may affirm, reverse or modify the decision of the City Manager and may take any action which might have been legally taken by the City Manager in the first instance.
- G. The decision of the City Council shall be final and conclusive, unless timely judicial review is sought pursuant to Code of Civil Procedure Section 1094.8. In the event a timely action or proceeding is brought pursuant to Section 1094.8, the decision to suspend or revoke the license shall be stayed automatically pending a final decision on the merits by the trial court. As used in this subsection, final decision on the merits does not include rehearing or appellate procedures.

5.16.100 – Massage Technician Certification.

It is unlawful for any person to perform or administer a massage without a certificate issued pursuant to Business and Professions Code Chapter 10.5, commencing with section 4600, as amended. Any violation of this section is subject to the enforcement provisions of Title 1 of this Code.

Exhibit "B"

Title 20, Article 4 – Section 20.400.190 (Massage Establishments)

This Section provides standards for massage establishments, where allowed in compliance with Article 2 (Zones, Allowable Land Uses, and Zone-Specific Standards) and Chapter 5.16 (Massage Establishments).

A. Definitions. Except where the context otherwise requires, the definitions given in Chapter 5.16 govern the construction of this section.

B. Permit Requirements.

- 1. Conditional Use Permit required.** All businesses proposing to conduct massage are subject to approval of a Conditional Use Permit as referenced in Chapter 20.550 (Use Permits – Minor and Conditional).
- 2. Massage Establishment license required.** All businesses that are proposing to conduct massage from a location that have an approved and active conditional use permit for massage services must obtain approval of a massage establishment license prior to the issuance of a business license and initiation of operations.

C. Facility Requirements.

1. A recognizable and readable sign shall be posted at the main entrance identifying the establishment as a massage establishment; provided that all such signs shall comply with the sign requirements of the city.
2. If shower facilities are provided, an enclosed changing area, directly adjacent to the shower shall be provided. The changing area shall be designed to allow the patron utilizing the shower facility to exit the shower, and enter the changing area, without being exposed or visible to any other area of the massage establishment. A private changing area shall be provided for each shower facility provided. The minimum dimension of the changing area shall be 25 square feet, and meet ADA standards.
3. A minimum of one separate washbasin shall be provided in each massage establishment for the use of employees of any such establishment. Said basin shall provide soap or detergent and hot and cold running water at all times, and shall be located within or as close as practicable to the area devoted to the performing of massage services. In addition, there shall be provided at each washbasin sanitary towels placed in permanently installed dispensers.
4. The storefront windows of the massage establishment shall be transparent to provide clear visibility into the unit. The windows shall not be obscured by curtains, blinds, or other temporary devices during operating hours.

5. Table showers

- a. If an establishment is proposing the use of table showers in the facility, the entire massage room where the table shower is located shall be design and built as a shower facility.
- b. The floor and walls shall be designed and built to be waterproof per California Building Code requirements.
- c. The room shall drain properly per the California Building Code.

D. Operational Requirements.

1. A massage business licensee shall have the premises supervised at all times when open for business by the operator or a designated manager. A person designated as the responsible managing officer shall be on the premises at all times of operation and must be registered with the city manager by the owner to receive all complaints and citations. The appointment of a managing officer in charge must be in writing with the managing officer in charge acknowledging this appointment. The violation upon the premises of any massage establishment of any provision of this chapter by any agent, employee or independent contractor of the holder of a massage business license shall constitute a violation by the licensee.
2. Each massage establishment shall have at least one person who has a valid CAMTC certification on the premises at all times while the establishment is open for business.
3. The operator of a massage establishment shall maintain a register of all persons employed as a massage technician and their CAMTC certification numbers, along with all receptionists, or other employees of the establishment. Such register shall be provided to the City upon application of a massage establishment license and business license, and shall be updated when an employee, massage technician, or independent contractor is added or discontinues services at the establishment. Notification shall be provided to the City within ten (10) calendar days of the date an employee, massage technician, or independent contractor is added or discontinues service at the establishment. The register shall also be made available for inspection by representatives of the city at any time during the establishment's business hours. If the register is not made available during inspection, the establishment may receive an administrative citation, along with any individual, not including patrons, at the establishment that cannot be verified as a legal employee.
4. In no circumstance shall any owner, operator, responsible managing employee, manager, licensee, employee or independent contractor expose any of his or her

specified anatomical areas to another person or persons while at the massage establishment.

5. In no circumstance shall any specified sexual activities take place at any time at the massage establishment.
6. No person or persons shall be allowed to live inside the massage establishment at any time. No food of any kind shall be prepared for sale or sold in the establishment unless an appropriate food vending license is obtained. There shall be no beds located in areas not designated specifically as massage rooms. Locker facilities shall be provided for all employees and independent contractors. All personal items of the employees or independent contractors shall be kept in the lockers while at the establishment.
7. No massage establishment shall operate as a school of massage, or use the facilities as that of a school of massage.
8. No massage establishment employing a massage technician shall be equipped with tinted or one-way glass in any room or office.
9. There shall be no display, storage, or use of any instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities, including, but not limited to, vibrators, dildos, or condoms, or any goods or items which are replicas of, or which simulate, specified anatomical areas, or pornographic magazines, videos, or other material.
10. Each service offered, the price thereof, and the minimum length of time such service shall be performed shall be posted in a conspicuous public location in each massage business or establishment. All letters and numbers shall be capitals not less than one inch in height. No services shall be performed and no sums shall be charged for services other than those posted. This posting requirement shall not apply to exempt physicians and/or surgeons who employ or retain non-exempt persons to perform massage therapy as part of licensed medical activities. All arrangements for services to be performed shall be made in a room that is not used for massage therapy.
11. Alcoholic beverages may not be sold, served, furnished, kept, consumed, imbibed, or possessed on the premises without a Conditional Use Permit approved in compliance with Chapter 20.550 (Use Permits - Minor and Conditional) and any applicable California Department of Alcoholic Beverage Control licenses.
12. Hours of operation shall be limited to the hours of 9:00 a.m. to 10:00 p.m. daily. The hours of operation shall be clearly displayed within a common area of the facility, or may be displayed as a form of window signage in compliance with Chapter 20.325 (Sign Standards).
13. The owner or operator of each massage establishment shall display the massage establishment license issued to the establishment and the CAMTC license issued

to each massage technician employed in the establishment in an accessible and conspicuous place on the premises. CAMTC certified massage practitioners shall have his or her original state certification at his or her place of business and his or her identification card in his or her possession while providing massage services.

14. No massage services shall be provided to a patron that results in intentional contact, or occasional repetitive contact, with specified anatomical areas.
15. No person shall give, or assist in giving, any massage or other body treatment to any other person under the age of eighteen (18) years, unless the parent or guardian of the minor person has consented thereto in writing.

E. Sanitation Requirements.

1. Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided.
2. Hot and Cold running water shall be provided at all times.
3. All walls, ceiling, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry rooms, steam and vapor rooms or cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs/table showers shall be cleaned after each use.
4. Clean and sanitary towels and linens shall be provided for each patron of the establishment or each patron receiving massage services. No common use of towels or linens shall be permitted.
5. Minimum ventilation shall be provided in accordance with the California Building Code.

F. Attire Requirements.

1. Dressing while engaging in the practice of massage for compensation, or while visible to clients in a massage establishment, in any of the following is a violation of Chapter 4609 California Business and Professions code:
 - a. Attire that is transparent, see-through, or substantially exposes the massage technician's undergarments.
 - b. Swim attire, if not providing a water-based massage modality approved by CAMTC.
 - c. A manner that exposes the massage technician's specified anatomical areas.
 - d. A manner that constitutes a violation of Section 314 of the Penal Code.
 - e. A manner that is otherwise deemed by CAMTC to constitute unprofessional attire based on the custom and practice of the profession in California.

G. Permit conditions. In approving a Conditional Use Permit to establish a massage use, the review authority may impose conditions (e.g., security and safety measures, light, noise buffers, parking, etc.) on the use to ensure that it operates in a manner that provides adequate protection to the public health, safety, and general welfare.

H. Inspection by Government Officials. The Director, City Manager, or their authorized representatives shall have the right to enter massage establishments or businesses, from time to time, unannounced, for the purposes of making reasonable inspections to observe and enforce compliance with this Section and all laws of the City and State of California.

I. Nuisances. Any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be unlawful and a public nuisance, and the city attorney may in the exercise of discretion, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal or enjoinder thereof, in a manner provided by law. Violations of this chapter or any permit provided pursuant to this chapter shall also be subject to enforcement under Title 1 of this Code or suspension, revocation, or non-renewal of any applicable permit.

J. Post-Decision Procedures. The procedures and requirements in Chapter 20.565 (Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 6 (Administration) shall apply following the decision on a massage establishment conditional use permit application.

K. Amortization of Existing Massage Establishments.

1. All zoning requirements set forth in this Chapter are deemed to be necessary for the protection of the public health, safety, and welfare and shall be applicable to and govern all existing and proposed massage establishments immediately upon the date the ordinance codified in this chapter becomes effective.
2. In the event a massage establishment lawfully in existence in a CG (Commercial General) zone prior to the adoption of this section is not in compliance with the zoning requirements of this title, such massage establishment shall conform to all zoning requirements and obtain all necessary permits required for the operation of a massage establishment identified in this Title and Title 5 (Business Licenses and Regulations) within two (2) years of the effective date of this section.
3. Any existing massage establishment in the CN (Commercial Neighborhood) zone which is a nonconforming use as of the effective date of the ordinance shall be subject to an amortization period of two (2) years, and any such business which becomes a nonconforming use after the effective date of said ordinance shall be subject to an amortization period of two (2) years commencing on the date the use becomes nonconforming.
4. Upon the conclusion of the amortization period, any massage establishment which is a nonconforming use shall cease all business operations, and all signs, advertising and displays relating to such business shall be removed within thirty (30) days thereafter.
5. Notwithstanding the foregoing, zoning requirements regarding operation, sanitation and attire as set forth in this Section 20.400.190 shall become immediately effective and must be observed in full force by existing massage establishment as of the effective date of the ordinance. Zoning requirements

regarding facility improvement shall be completed within two (2) years of the effective date of this section.

L. Extension of massage establishment amortization period.

1. An application for extension of the amortization period for a massage establishment which is a nonconforming use shall be made as provided herein.
2. The owner of the property on which the business is located or the owner of the business must submit a complete application for approval of an extension not later than six (6) months prior to the expiration of the amortization period, unless the Director determines that good cause is shown for late filing of the application. Such application shall be made in writing on a form prescribed by the Director and shall be accompanied by the filing fee established by resolution of the City Council. The person requesting the extension of the amortization period shall bear the burden of proof in establishing that the amortization period established by Section 20.400.190.K of this chapter is unreasonable and that the requested extension is a reasonable amortization period under the criteria set forth in subsection 7 of this section. The person applying for the extension shall furthermore be required in order to meet its burden of proof to submit the documentation set forth in this section.
3. Not later than thirty (30) calendar days after submittal of an application to extend the amortization period, the Director shall notify the applicant, in writing, if the application is not complete. The notice shall describe the manner in which the application can be made complete and shall be deemed given upon personal delivery to the applicant or upon deposit in the U.S. mail, first class, postage prepaid, addressed to the applicant at the address shown on the application. If a written determination is not provided to the applicant within thirty (30) calendar days after the application is submitted, the application shall be deemed complete. A complete application shall include:
 - a. The applicant's name and street address of business;
 - b. The address to which notice is to be mailed, at the applicant's option, a telephone number and/or email address;
 - c. The applicant's signature;
 - d. The term of the requested extension;
 - e. Documentation relevant to the factors listed in subsection 7 of this section; and
 - f. The required filing fee.
4. Within sixty (60) days after a complete application is filed, the Planning Commission shall hear and act on the application and the secretary to the Planning Commission shall give the applicant written notice of the decision and findings made by the Planning Commission. Otherwise, the application shall be deemed granted by operation of law and the business shall be operated in accordance with the provisions of this chapter. Notice shall be deemed given upon personal delivery to the applicant or upon deposit in the U.S. mail, first class, postage prepaid, addressed to the applicant at the address shown on the application. The secretary shall give the applicant at least ten (10) calendar days written notice of the time and place at which the application shall be heard by the

Planning Commission in the same manner that notice of the decision is to be given pursuant to this subsection.

5. A decision of the Planning Commission to deny the application, may be appealed, in whole or in part, by filing a complete notice of appeal with the city clerk within fifteen (15) days after notice of the decision was given to the applicant pursuant to subsection 4 of this section. To be deemed complete, the notice of appeal shall be signed by the appellant, shall state the grounds for disagreement with the decision of the Planning Commission, and shall be accompanied by the filing fee established by resolution of the City Council.
6. Within forty-five (45) calendar days after the appeal was filed, the City Council shall hear and act on the appeal and the city clerk shall give the appellant written notice of the decision and findings made by the City Council. Otherwise, the application shall be deemed granted by operation of law and the business shall be operated in accordance with the provisions of this chapter. Notice shall be deemed given upon personal delivery to the appellant and applicant upon deposit in the U.S. mail, first class, postage prepaid, addressed to the applicant at the address shown on the application. The notice shall include a written statement verified by oath or affirmation attesting to the date that the decision was mailed to the party by first class mail. The city clerk shall give the appellant and applicant at least ten (10) calendar days written notice of the time and place at which the appeal shall be heard, de novo, by the City Council, in the same manner that written notice of the decision is to be given pursuant to this subsection.
7. In determining whether to grant an extension of the amortization period and in determining the appropriate length of such an extension, the Planning Commission and the City Council on appeal shall consider:
 - a. The amount of investment in the business;
 - b. The present actual and depreciated value of business improvements;
 - c. The applicable Internal Revenue Service depreciation schedule or functional nonconfidential equivalent;
 - d. The remaining useful life of the business improvements;
 - e. The remaining lease term;
 - f. The ability of a business and/or land owner to change the use of a conforming use;
 - g. The opportunity for relocation to a legally permissible site and the cost of relocation; and
 - h. The date upon which the property owner and/or business owner received notice of the nonconforming status of the massage establishment business and the amortization requirements.
8. The Planning Commission or the City Council on appeal shall receive and consider evidence presented by the appellant and any other persons, and shall make findings that the extension to the amortization period it establishes is reasonable in view of the evidence and the criteria set forth in subsection 7. In no event shall the amortization period extension be longer than two (2) years.
9. The decision of the Planning Commission shall be final and conclusive, unless a timely and complete appeal is filed with the city clerk pursuant to subsection 5 of this section. The decision of the City Council on appeal shall be final and

conclusive, unless timely judicial review is sought pursuant to Code of Civil Procedures Section 1094.8. In the event that a timely action or proceeding is brought pursuant to Code of Civil Procedures Section 1094.8 from the decision to deny the requested extension, in whole or in part, the decision shall be automatically stayed pending a final decision on the merits by the trial court. As used in this subsection, final decision on the merits does not include rehearing or appellate procedures.